

## REGULAR COUNCIL MEETING – AGENDA #38

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 763-493-8141 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/PLEDGE OF ALLEGIANCE**

**2. PUBLIC COMMENT AND RESPONSE 7:00 p.m.** Provides an opportunity for the public to address the Council on items which are not on the agenda. Public Comment will be limited to 15 minutes (*if no one is in attendance for Public Comment, the regular meeting may begin*), and it may not be used to make personal attacks, to air personality grievances, to make political endorsements or for political campaign purposes. Individuals should limit their comments to three minutes. Council Members will not enter into a dialogue with citizens. Questions from the Council will be for clarification only. Public Comment will not be used as a time for problem solving or reacting to the comments made, but rather for hearing the citizen for informational purposes only.

### **2A. RESPONSE TO PRIOR PUBLIC COMMENT**

### **2B. PUBLIC COMMENT**

**3A. APPROVAL OF AGENDA** (Items specifically identified may be removed from Consent or added elsewhere on the agenda by request of any Council Member.)

### **3B. PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS**

**3B.1** Rec On The Go! (ROTG) Programming Update and Outcomes

**3B.2** Aftermath Why We Serve Grant Acceptance

**A.** RESOLUTION

## **II. STATUTORY BUSINESS AND/OR POLICY IMPLEMENTATION**

**4. CONSENT** (All items listed under Consent, unless removed from Consent in agenda item 3A, shall be approved by one council motion.) Consent Agenda consists of items delegated to city management or a commission but requires council action by State law, City Charter or city code. These items must conform to a council approved policy, plan, capital improvement project, ordinance or contract. In addition, meeting minutes shall be included.

**4.1** Award Contract for Playground Replacement Program

**A.** RESOLUTION

**B.** PROPOSAL, ZANEWOOD PARK

**4.2** Award the Bid for a One-Year Contract Extension for the 2020 Boulevard Tree Pruning Contract to Ostvig Tree Inc.

**A.** RESOLUTION

**4.3** Approval of Minutes

**A.** CITY COUNCIL MEETING MINUTES, OCTOBER 1, 2018

**B.** CITY COUNCIL MEETING MINUTES, NOVEMBER 26, 2018

**C.** CITY COUNCIL MEETING MINUTES, DECEMBER 10, 2018

**D.** CITY COUNCIL MEETING MINUTES, MARCH 11, 2019

- 4.4 Amend the 2019 General Fund Budget for the Administrative Fees Received for Host Approval of the Issuance of the Revenue Bonds for Hampton Senior Care Project, Series 2019B and from the Issuance of the Bonds 2019A and 2019B for the Amorice I Project
  - A. RESOLUTION
- 4.5 Letters of Credit/Bond Releases, Escrow/Cash Bond Releases
- 4.6 Approve an On-Sale 3.2 Malt Liquor License for Midas Hospitality LLC dba Hampton Inn Brooklyn Park, 9470 West Broadway, Brooklyn Park
- 4.7 Authorize Amending the Agreement with KLM Engineering Inc. for Engineering Services for the Noble Water Tower Rehabilitation Project
  - A. RESOLUTION
  - B. PROPOSED AGREEMENT AMENDMENT
- 4.8 Resolution Calling for a Public Hearing on the Vacating of Public Park (Fair Oaks Park)
  - A. RESOLUTION

**The following items relate to the City Council's long-range policy-making responsibilities and are handled individually for appropriate debate and deliberation. (Those persons wishing to speak to any of the items listed in this section should fill out a speaker's form and give it to the City Clerk. Staff will present each item, following in which audience input is invited. Discussion will then be closed to the public and directed to the council table for action.)**

## **5. PUBLIC HEARINGS**

- 5.1 Public Hearing for Vacation of the Street Easement at 7516 Brooklyn Boulevard
  - A. RESOLUTION
  - B. PETITION
  - C. PROPOSED EASEMENT VACATION AREA
- 5.2 Public Hearing on a Proposal for the Issuance of Charter School Lease Revenue Bonds (Excell Academy Project); Consideration of Resolution
  - A. RESOLUTION
  - B. RESOLUTION #2019-160 – PUBLIC HEARING NOTICE
- 5.3 Public Hearing for the Stormwater Pollution Prevention Plan (SWPPP)
- 5.4 Approve an On-Sale Intoxicating Wine License for Midas Hospitality LLC dba Hampton Inn Brooklyn Park, 9470 West Broadway, Brooklyn Park

## **6. LAND USE ACTIONS**

- 6.1 Fix Auto of Brooklyn Park (American Auto Body) – Conditional Use Permit for an Auto Body Repair Facility at 8832 Zealand Avenue North
  - A. RESOLUTION
  - B. LOCATION MAP
  - C. PLANNING AND ZONING INFORMATION
  - D. PLANNING COMMISSION MINUTES
  - E. APPLICANT'S NARRATIVE
  - F. PLANS
- 6.2 Green Haven 2<sup>nd</sup> Addition (Plateau Properties LLC) – Final Plat #19-117 to Subdivide Existing Residential Lots into Two Lots at 7900 Mount Curve Boulevard North and 7880 Mount Curve Boulevard North
  - A. RESOLUTION
  - B. LOCATION MAP
  - C. FINAL PLAT

## **7. GENERAL ACTION ITEMS**

- 7.1 Approve Supplemental Letter of Agreement No. 26 with SRF Consulting Group, Inc, to Provide Construction Administration Support Services for the Trunk Highway 169 / 101<sup>st</sup> Avenue Interchange; CIP 4042-19
  - A. RESOLUTION
  - B. SUPPLEMENTAL LETTER AGREEMENT NO. 26
  - C. PROJECT FUNDING MATRIX
- 7.2 Second Reading of the Brooklyn Park Tenant Notification Ordinance
  - A. TENANT NOTIFICATION ORDINANCE
  - B. FAQ PACKET
- 7.3 FIRST READING of an Ordinance to Amend Chapter 92 of the City Code to Eliminate Pet Licenses
  - A. ORDINANCE
  - B. CITY COMPARISON



# City of Brooklyn Park Request for Council Action

|                        |   |                                |   |
|------------------------|---|--------------------------------|---|
| <b>Agenda Item:</b>    | 3B.1  | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | Public Presentations/<br>Proclamations/Receipt of<br>General Communications | <b>Originating Department:</b> | Recreation and Parks  |
| <b>Resolution:</b>     | N/A   | <b>Prepared By:</b>            | Pam McBride, Youth Services<br>Manager  |
| <b>Ordinance:</b>      | N/A   |                                |   |
| <b>Attachments:</b>    | N/A   | <b>Presented By:</b>           | Laura Stigen, Arts and<br>Engagement Specialist<br>Pam McBride, Youth Services<br>Manager |
| <b>Item:</b>           | Rec On The Go! (ROTG) Programming Update and Outcomes                       |                                |   |

## City Manager's Proposed Action:

A full program report on Rec On The Go! will be presented by Arts and Engagement Specialist Laura Stigen and Youth Services Manager Pam McBride.

## Overview:

Youth-to-Youth Community surveys completed in 2008, 2012, 2014, 2016 and 2018 identified the following needs of youth in the Brooklyns (Brooklyn Park and Brooklyn Center):

- 34% busy with job, homework or other things
- 32% of respondents said "not knowing what's available" was a barrier to participating
- 26% of respondents said it costs too much
- 24% of respondents said that transportation was a barrier to their participation
- 24% want more free time for myself
- 22% of respondents expressed responsibilities at home

Responding to the community needs, creating access to quality programs and opportunities and eliminating the barriers of young people, parents and community was the impetus to develop the "Rec on the Go" program. The implementation of Rec On The Go! involved a strategic partnership with Brooklyn Center and the relationships of the Brooklyn Bridge Alliance for Youth and its intermediary influence, which yielded a successful 2-year Hennepin County Youth Sports Grant.

Many communities throughout the U.S. are using mobile recreation platforms as a way to serve underrepresented and/or geographically isolated populations. By bringing the recreation programs and services OUT INTO the community and to their constituents, they are able to reduce transportation, access, and cost barriers and increase participation. The 2018 Youth-to-Youth survey showed a participation increase with youth currently participating in activities at 46%, up 6% from 2016.

## Program Overview:

Mobile recreation vehicles traveled to 12 different sites (apartment complexes, parks, school and Hennepin County Library) throughout the summer to provide activities targeted at youth ages 5-18 who have never participated in recreation programming and live within walking or biking distance of the park. Programming occurred twice a week, for 90 minutes at each location from June 17 to August 15, 2019 for a total of 8 weeks. The activities included games, sports, arts and crafts, and literacy activities. In addition, ROTG appeared at various city events.

Several partners also provided programming that overlapped the Rec On The Go! program. Three Rivers Park District brought programming to some of the sites. Partners in Nutrition provided food (lunch or dinner) at all of the sites.

Number of Youth:

In 2019, there were 4,814 participant visits, which is almost double from the first year (2015) of 2,409 participants.

Of the 4,814 total participants in the weekly park programming, there were 1,255 non-duplicated participants, up from 741 the first year. There were 4,925 youth who attended or were reached at city special events.

Partners in Nutrition provided youth in weekly programming 4,523 meals during the summer when food can be scarce and needed in families that utilize free and reduced lunch during the school year.

ROTG Program Goals:

1. Short-term Outcomes

- a. Increase in youth participating who have cost or transportation barriers
- b. Increase in youth connected to recreation staff (positive caring adult)
- c. Increase in youth eating one healthy meal a day during the summer
- d. Increase in safe spaces for youth to play
- e. Increase the number of youth that participate in recreation program and services

2. Medium-term Outcomes

- a. Increase in positive social, emotional development of youth
- b. Increase in positive connection to the cities of Brooklyn Center and Brooklyn Park
- c. Increase in residents' trust in their city
- d. Increase in residents signing up for other recreation programs
- e. Increase youth participation in advocacy for recreation and park services that meet their needs

3. Long-term Outcomes

- a. Youth are safe and supported in recreational play near their homes
- b. Policymakers and community value recreation and park services that break down

Program Evaluation and Stakeholder Input:

All three community stakeholders (youth, parents, and apartment managers) reported a demand for more programming.

- One hundred percent (100%) of parents surveyed wanted the program to expand as much as possible, including longer days, into winter or year-round, with additional hours and at more locations
- 45% indicated this was the first time their family had participated in a Brooklyn Park Recreation and Park Department program
- Apartment managers interviewed requested that programming stay steady or even be increased to at least three times a week, be offered year-round, longer sessions, and homework help be added to program activities
- Apartment Managers also felt that the program helped create more community among residents and the youth, and more trust between residents and the city

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

**Budgetary/Fiscal Issues:**

Funding for the Rec On The Go! program is included within the 2020/2021 Recreation and Parks Department Budget. Based on previous City Council recommendations, funding from apartment complexes that host Rec on the Go! is in progress.

**Attachments:** N/A

# City of Brooklyn Park Request for Council Action

|                        |   |                                    |  |
|------------------------|---|------------------------------------|--|
| <b>Agenda Item:</b>    | 3B.2  | <b>Meeting Date:</b>               | October 28, 2019                                 |
| <b>Agenda Section:</b> | Public Presentations/<br>Proclamations/Receipt of<br>General Communications | <b>Originating<br/>Department:</b> | Police   |
| <b>Resolution:</b>     | N/A   | <b>Prepared By:</b>                | Stephanie Heiberger,<br>Administrative Assistant |
| <b>Ordinance:</b>      | N/A   |                                    |  |
| <b>Attachments:</b>    | 1   | <b>Presented By:</b>               | Deputy Chief Todd Milburn                        |
| <b>Item:</b>           | Aftermath Why We Serve Grant Acceptance                                     |                                    |  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_\_ ACCEPTING THE AFTERMATH WHY WE SERVE GRANT.

## Overview:

Aftermath's Why We Serve Grant is presented to law enforcement officers and first responders who go above and beyond the call of duty to further connect with their communities through worthwhile causes like mentoring kids, feeding the homeless, and other community-building initiatives. Aftermath recently awarded seven service grants totaling \$15,000 to the organization, cause or charity of the applying officer's choice.

Officer Jennifer Foster received notification of this grant opportunity. She had been working closely with staff at Crestview Elementary on different events and thought it would be a great opportunity to obtain additional funding for their programs. With more than 58,000 votes cast, her project came in 5<sup>th</sup> place, earning a \$1,000 grant for programming at Crestview.

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

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

## Attachments:

3B.2A RESOLUTION

RESOLUTION #2019-

RESOLUTION ACCEPTING THE AFTERMATH WHY WE SERVE GRANT

WHEREAS, the Aftermath Why We Serve Grant is presented to law enforcement officers and first responders who go above and beyond the call of duty to further connect with their communities through worthwhile causes; and

WHEREAS, Aftermath recently awarded seven service grants to the cause of the applying officer's choosing; and

WHEREAS, the Police Department applied for and received a grant to support the work Officer Jennifer Foster has done with staff at Crestview Elementary.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to accept the Aftermath Why We Serve Grant for programming at Crestview Elementary.

# City of Brooklyn Park Request for Council Action

|                        |   |                                |   |
|------------------------|---|--------------------------------|---|
| <b>Agenda Item:</b>    | 4.1   | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | Consent   | <b>Originating Department:</b> | Operations and Maintenance, Recreation and Parks  |
| <b>Resolution:</b>     | X   | <b>Prepared By:</b>            | Greg Hoag, Park and Building Maintenance Manager  |
| <b>Ordinance:</b>      | N/A   |                                |   |
| <b>Attachments:</b>    | 2   | <b>Presented By:</b>           | Greg Hoag, Park and Building Maintenance Manager; Brad Tullberg, Parks and Facilities Manager |
| <b>Item:</b>           | Award Contract for Playground Replacement Program |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_\_ TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACT WITH ST. CROIX RECREATION FUN PLAYGROUNDS INC. AND BCI BURKE LLC, FOR THE REPLACEMENT OF THE PLAYGROUND EQUIPMENT AT ZANEWOOD PARK FOR A TOTAL COST OF \$213,127.28.

## Overview:

The playground replacement program is part of the 2019-2023 Capital Improvement Program (CIP) and 2019 Budget for \$275,000 and has been included in previous CIPs. This is an annual project to keep our playground structures compliant with current safety standards.

The current playground at Zanewood Park was purchased in 2010 from Xccent Play as a Beta test product at approximately a 50% discount of retail price. At that time, Xccent Play was looking for a location to test a playground focused for kids 5-12 years old. Xccent Play is no longer in business, thus, any equipment that breaks on this playground cannot be repaired or replaced.

Throughout the summer, staff has been working with youth at Zanewood Recreation Center to design a replacement playground for Zanewood Park that will have activities for ages 2-12+ years old. St. Croix Recreation Fun Playgrounds Inc. represents BCI Burke playground equipment locally and is the supplier of the recommended equipment. This equipment is available through the State of Minnesota Purchasing Consortium, which provides a discount of \$10,434.72 on the proposed playground equipment. BCI Burke LLC is offering an additional discount of \$19,130 to bring the cost of the new playground equipment to \$213,127.28.

## Primary Issues/Alternatives to Consider:

- Should the Council authorize the purchase of new playground equipment for Zanewood Park as recommended?

Operations and Maintenance and Recreation and Parks staff recommend approval of the project as presented.

**Budgetary/Fiscal Issues:**

This project is included in the 2019-2023 CIP as item #2001 and the 2019 budget as New World project #200119; the funding source is the Heritage Infrastructure Fund \$275,000. The cost to replace the playground equipment is \$242,692, less \$10,434.72 (State of Minnesota Purchasing Consortium discount), less \$19,130 (BCI Burke manufacturer's discount) for a cost to the City of \$213,127.28, which can be accommodated in the 2019 budget. Due to the late season for construction, installation will be completed in 2020 under a separate contract.

**Attachments:**

- 4.1A RESOLUTION
- 4.1B PROPOSAL, ZANEWOOD PARK

RESOLUTION #2019-

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACT WITH ST. CROIX RECREATION FUN PLAYGROUNDS INC. AND BCI BURKE LLC, FOR THE REPLACEMENT OF THE PLAYGROUND EQUIPMENT AT ZANEWOOD PARK FOR A TOTAL COST OF \$213,127.28

WHEREAS, the City has playground structures near the end of their useful life because of new safety standards and irreplaceable parts; and

WHEREAS, the 2019-2023 Capital Improvement Plan project #2001 identifies \$275,000 for playground replacement out of the Heritage Infrastructure Fund in 2019; and

WHEREAS, the playground at Zanewood Park has reached the end of its useful life and is in need of replacement; and

WHEREAS, staff has worked with the State of Minnesota Purchasing Consortium and the Manufacturer to receive discounts in the amount of \$29,564.72 to reduce the total cost of \$242,692 to be \$213,127.28.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to authorize the purchase and replacement of the playground equipment at Zanewood Park and authorize the Mayor and City Manager to enter into a contract with St. Croix Recreation Fun Playgrounds Inc. for a cost of \$213,127.28.

**St. Croix Recreation Fun Playgrounds INC.**  
1826 Tower Dr W  
Stillwater, MN 55082 US  
16514301247  
hannah@stcroixrec.com



# Estimate

**ESTIMATE #** 4047  
**DATE** 10/11/2019

**ADDRESS**  
City of Brooklyn Park  
email:  
greg.hoag@brooklynpark.org

**SHIP TO**  
City of Brooklyn Park  
Attn: Parks Dept  
8300 Noble Ave N  
Brooklyn Park, MN 55443

PLEASE DETACH TOP PORTION AND RETURN WITH YOUR PAYMENT.

**SHIP VIA**  
Truckload

**SALES REP**  
Mike Basich

| ACTIVITY   | QTY   | RATE       | AMOUNT     |
|--|-------|------------|------------|
| <b>BCI-100-119143-1</b><br>CUSTOM DESIGNED PLAYGROUND INCLUSIVE OF ALL ELEMENTS AS LISTED ON ATTACHED SCHEMATIC DRAWINGS AND MATERIALS LISTS:<br>ZANEWOOD COMMUNITY CENTER | 1     | 173,912.00 | 173,912.00 |
| <b>STATE CONTRACT</b><br>STATE CONTRACT #119803  | 1     | -10,434.72 | -10,434.72 |
| <b>DISCOUNT</b><br>ADDITIONAL MFG. DISCOUNT  | 1     | -19,130.00 | -19,130.00 |
| <b>Freight</b><br>Truckload Freight FOB Fond Du Lac, WI  | 1     | 2,300.00   | 2,300.00   |
| <b>ENGINEERED WOOD FIBER</b><br>ENGINEERED WOOD FIBER 12" COMPACTED DEPTH Blown in materials   | 380   | 36.00      | 13,680.00  |
| <b>POUR IN PLACE</b><br>POUR IN PLACE RUBBER SURFACING 2400 SQ FT. AT 8' FALL HEIGHT PROTECTION INCLUDING INSTALL  | 2,400 | 22.00      | 52,800.00  |

QUOTES ARE EFFECTIVE FOR 30 DAYS.  
SALES TAX SUBJECT TO CHANGE. ADD IF NOT EXEMPT OR SUPPLY EXEMPTION CERTIFICATE IF NOT ON FILE (ANNUALLY).  
PAYMENT TERMS ARE NET 30 DAYS UNLESS OTHERWISE NOTED.  
FAILURE TO PAY IN A TIMELY MANNER MAY INCUR INTEREST.

**TOTAL** **\$213,127.28**

Accepted By

Accepted Date



# City of Brooklyn Park Request for Council Action

|                        |  |                                |   |
|------------------------|--|--------------------------------|---|
| <b>Agenda Item:</b>    | 4.2  | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | Consent  | <b>Originating Department:</b> | Operations and Maintenance  |
| <b>Resolution:</b>     | X  | <b>Prepared By:</b>            | Greg Hoag, Park and Building Maintenance Manager                          |
| <b>Ordinance:</b>      | N/A  |                                |   |
| <b>Attachments:</b>    | 1  | <b>Presented By:</b>           | Dan Ruiz, O&M Director<br>Greg Hoag Park and Building Maintenance Manager |
| <b>Item:</b>           | Award the Bid for a One-Year Contract Extension for the 2020 Boulevard Tree Pruning Contract to Ostvig Tree Inc. |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ TO AWARD THE BID FOR A ONE-YEAR CONTRACT EXTENSION FOR THE 2020 BOULEVARD TREE PRUNING CONTRACT TO OSTVIG TREE INC.

## Overview:

A request for bids was solicited in January 2018 for boulevard tree pruning services. Bids were received from six companies. Bids were reviewed based on the hourly cost for a four-person crew. On February 26, 2018, the City Council awarded the bid to the lowest responsible bidder, Ostvig Tree Inc., at the hourly amount of \$283.60. The 2018 bid solicitation included a one-year extension for up to three consecutive years with excellent service provided during the initial contract term. On December 3, 2018, the City Council approved an extension for 2019. Staff is recommending a one-year extension for 2020 based on excellent performance by the Contractor.

## Primary Issues/Alternatives to Consider:

Operations and Maintenance staff is recommending Council award of a one-year contract extension for 2020 to Ostvig Tree Inc.

## Budgetary/Fiscal Issues:

The 2020 Park Maintenance Forestry budget includes \$40,000.00 for boulevard tree pruning services.

## Attachments:

4.2A RESOLUTION

RESOLUTION #2019-

RESOLUTION TO AWARD THE BID FOR A ONE-YEAR CONTRACT EXTENSION FOR THE 2020 BOULEVARD TREE PRUNING CONTRACT TO OSTVIG TREE INC.

WHEREAS, hourly bid prices were requested from ten (10) different vendors for boulevard tree pruning services in January 2018; and

WHEREAS, the city received hourly bid prices from six (6) vendors: Precision Landscape and Tree Inc., Ostvig Tree Inc., Birch Tree Service, Rainbow Tree Care, Nature's Trees Inc. and Northeast Tree Inc.; and

WHEREAS, the hourly cost from the other vendors ranges from \$285.00 to \$351.00; and

WHEREAS, the lowest responsible hourly bid price is from Ostvig Tree Inc. with an hourly cost of \$283.60; and

WHEREAS, the bid included a one-year extension for up to three consecutive years with excellent performance; and

WHEREAS, on December 3, 2018, the City Council approved the first one-year extension for 2019; and

WHEREAS, the mission of the Operations and Maintenance Department is to provide a safe, attractive, long-lived forestry program with economical operations and low-cost maintenance; and

WHEREAS, boulevard tree pruning is budgeted in the 2020 Park Maintenance forestry program general fund budget for \$40,000.00.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park award the bid for a one-year contract extension for the 2020 boulevard tree pruning contract to Ostvig Tree Inc.

# City of Brooklyn Park Request for Council Action

|                        |                     |                                |                           |
|------------------------|---------------------|--------------------------------|---------------------------|
| <b>Agenda Item:</b>    | 4.3                 | <b>Meeting Date:</b>           | October 28, 2019          |
| <b>Agenda Section:</b> | Consent             | <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>    | 4                   | <b>Presented By:</b>           | Devin Montero             |
| <b>Item:</b>           | Approval of Minutes |                                |                           |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF OCTOBER 1, 2018, AS PRESENTED BY THE CITY CLERK.

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF NOVEMBER 26, 2018, AS PRESENTED BY THE CITY CLERK.

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF DECEMBER 10, 2018, AS PRESENTED BY THE CITY CLERK.

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF MARCH 11, 2019, AS PRESENTED BY THE CITY CLERK.

**Overview:** N/A

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

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

## Attachments:

- 4.3A CITY COUNCIL MEETING MINUTES, OCTOBER 1, 2018
- 4.3B CITY COUNCIL MEETING MINUTES, NOVEMBER 26, 2018
- 4.3C CITY COUNCIL MEETING MINUTES, DECEMBER 10, 2018
- 4.3D CITY COUNCIL MEETING MINUTES, MARCH 11, 2019

## REGULAR BROOKLYN PARK CITY COUNCIL WORK SESSION

Monday, October 1, 2018  
7:00 p.m.

Steve Lampi Meeting Room  
5200 85th Avenue North

CALL TO ORDER – Mayor Jeffrey Lunde

PRESENT: Mayor Jeffrey Lunde; Council Members Bob Mata, Terry Parks, Susan Pha, Lisa Jacobson, Mark Mata and Rich Gates; City Manager Jay Stroebel; Community Development Director Kim Berggren; Recreation and Parks Director Jody Yungers and City Clerk Devin Montero.

ABSENT: None.

### **C. DISCUSSION ITEMS/GENERAL ACTION ITEMS:**

#### **C.1 Metro Blue Line Extension Light Rail Transit Update**

Light Rail Transit Project Manager Jennifer Jordan gave a Metro Blue Line Extension Light Rail Transit update.

Council Member M. Mata asked about overhead powerlines.

Project Manager Jordan stated that overhead powerlines were not an LRT expense, but it was to be tied into the investments, and would be about the underground utilities in that area.

Council Member M. Mata asked if the policy included, that if any utilities were built in the future, they would be buried.

Project Manager Jordan confirmed that utilities in the future would be buried.

Council Member M. Mata asked why it was not brought up during the Brooklyn Boulevard for sidewalk removal conversation.

Project Manager Jordan stated they had not been consistent with the policy but stated it was currently consistent under the policy.

City Manager Stroebel asked if that tied into the Highway 81 project.

Project Manager Jordan stated the project was the 2019 construction, the decision needed to be made to bury or not to bury utilities. She stated the actual action for the expenditure would come later and that project did not make sense in that zone.

Council Member B. Mata asked if it was a city expense, State or County.

Project Manager Jordan stated the State or County would not contribute. She stated Xcel Energy could pay the expense and then create charges to capture the revenues.

Council Member B. Mata stated if it was torn up, asked if it was cheaper to bury it then to do it separately.

City Engineer Struve stated Xcel Energy would have to move their lines. If they directed them to bury it, Xcel Energy would give the City a credit of what it would cost them to move the lines. He stated if they moved the lines and the City decided to hold off and do the burial with LRT, then the City would not get a credit.

Project Manager Jordan stated that advance planning, HED infrastructure, and Hennepin County received a grant through the Federal Transit Administration to do a wide variety of work. She stated in the grant, they looked at existing bike and pedestrian projects in current plans and taking the six projects to a higher level of design by 60%. The consultant team, SRF, and community designs group, took all projects across the Bottineau Corridor and applied screening mechanisms to drop it down to ten projects. She stated of the Corridor projects, the City of Brooklyn Park had six of ten and every community had a project, but Brooklyn Park had the most.

She stated the next step was to go back out to the community on those six projects. She stated Brooklyn Park Boulevard Trail, which was from West Broadway to Hampshire Avenue, the section from Hampshire Avenue to West Broadway, 63rd Avenue Trail to Boone to Zane, Zane Trail 73rd to 85th Avenue on the east side, 93rd Avenue Trail, which was Jefferson Highway all the way to West Broadway, and a piece would be a part of the LRT project and some sidewalks on Louisiana Avenue from 62<sup>nd</sup> Avenue to 63<sup>rd</sup> Avenue and then a sidewalk on one or both sides of Hampshire Avenue from 66<sup>th</sup> Avenue to 63<sup>rd</sup> Avenue. She stated those were in order of screening priority and pointed out that 63<sup>rd</sup> Trail from Boone Avenue to Zane Avenue, segment one was Boone Avenue to Louisiana Avenue and the second segment was from Louisiana Avenue to Zane Avenue.

Council Member M. Mata asked if some of those trails were done.

Project Manager Jordan stated yes and stated segment one had a box at the top with the existing condition information and then the bottom box was the proposed information, which was a two-way multiuse path recognizing the shifting to the south side after West Broadway. She stated segment two was already striped for bike lanes and that would be retained. She stated that the suggestion was a sidewalk on the northside, and most of it was done, but it added a pedestrian element to it.

Council Member Pha stated the current sidewalks were 10 feet and the packet said 11 and 11 ½ feet was proposed. She asked if that would mean the current sidewalk would be ripped up or would the extra feet be added to the current sidewalk.

Project Manager Jordan stated the sidewalk would be widened.

Council Member Pha clarified that the City would not be ripping up any sidewalks but extending it.

Project Manager Jordan stated in that case, staff's recommendation would be to add a sidewalk on the north side that did not have one.

Mayor Lunde asked about the bike lanes on the street.

Project Manager Jordan confirmed what the condition was today.

Mayor Lunde asked if no one was using them, could they reclaim them later and turn them back into car lanes.

Light Rail Transit Project Manager Jennifer Jordan stated yes they could reclaim them and turn them back into car lanes.

Council Member B. Mata stated there were sidewalks all the way from Highway 81 to Boone Avenue and from Highway 81 to Zane Avenue on the north side, as well as one on the south side, and one from Highway 81 to Boone Avenue. He wanted clarification on why they were adding sidewalks to that area.

Project Manager Jordan stated that in the concepts they were explaining where the gaps were in the sidewalks. She stated it was inconsistent and filling the gaps was what the project would be doing. She stated the first segment from Boone Avenue to Louisiana Avenue, was not proposing to put a sidewalk in, it was proposing to build a two-way multi use trail and that was the difference.

Council Member B. Mata asked if they were taking the sidewalk out and putting the trail in.

Project Manager Jordan stated there was a plan to put a trail in with the LRT project on the north side on 63<sup>rd</sup> Avenue along the Park and Ride.

Council Member B. Mata asked if the City was going to have to claim property from homeowners.

Project Manager Jordan stated that was part of any part of capital project, when items were going from a 60% design the consultants would look at the necessary steps to take. She stated it did not mean they needed to act on those projects but meant taking those projects to a higher level.

Council Member B. Mata stated that homeowners had their shrubs where the city would need to rip them out to put the 10-foot trail in. He stated the homeowners would not be happy about it.

City Manager Stroebel stated in that concept it did seem to stay consistent with the existing right away and did not expand.

Project Manager Jordan stated that was a big part of the conversations with the consultants and staying in the existing right away made the projects more feasible, as feasibility was a part of the tests and cost effectiveness.

Council Member B. Mata stated the Boulevard was not seven-feet wide.

Project Manager Jordan stated that was just an example and she would send out the full list in a packet so they could study them in detail. She stated she would be working with Community Design Group, which would do the targeted outreach for the projects. She stated, then the current projects would move to the 60% concepts design. which the Council would be getting. She stated the information was for the Council Members to make plans for the CIP and they would be bringing it to the Council, not as a recommendation, but as something to consider in crafting of the future CIPs.

Council Member M. Mata stated the City had good sidewalks and did not want the City to put money into sidewalks when there was little to no usage of the sidewalks. He suggested finding a college student to do the research, study in hourly segments, and count the amount of people using it. He stated he did not want to see the sidewalks being ripped up.

Project Manager Jordan stated the Planning Department had said that input from the community's development priorities was the ability to access and use the trails, particularly with older individuals, where the trails were limited. She stated they consistently heard that access to trails was valued in the community. She stated it was hard to predict if the sidewalk was not being used today, to understand what the barriers were to use it. If people were not using the sidewalks because they were not safe, then that was part of the underlining assumptions that went into the planning work. She stated that she understood what Council Member Mark Mata was saying, but that was something to consider. She stated the facility of a trail was different than the facility of a sidewalk and it depended on what community values as well as the usage of today didn't dictate the usage of the future.

## **C.2 TH169/101st Avenue Interchange – Value Engineering Study Proposals**

City Engineer Jesse Struve presented preliminary findings from the Highway 169 and 101st Engineer Value Study. He stated that for any project that used funds over \$20 million was a federally mandated requirement. He briefed on the Project Overview, VE Job Plan, Workshop Objectives, Project Functions, Performance Attributes, Creative Ideas, Evaluation, Value Engineering Proposals, Summary Set 1, Summary Set 2, Summary Set 3, Design Suggestions, and Next Steps.

He stated many of those proposals were interchangeable, meaning, if they wanted to do Option one, Option two and Option three, they could do them independently of each other and didn't need to lump them together. He stated they could pick and choose which options they wanted to consider further. He stated that some of the workshop's goals were minimizing impacts to utilities to sewer lines, how to reduce right of way, the impacts to the local church, access in keeping on schedule, with construction starting late 2019 and through 2020. He stated the study looked at different performance impacts, maintenance, and traffic and the group looked at scheduling, costs, operations, and came up with 46 ideas, 12 alternatives were developed, and 2 design suggestions.

Council Member B. Mata stated reduced lanes, roundabouts and the U-turns on the freeway were dangerous. He asked that with the possibilities of semis accessing 101st, asked if the roundabouts and roads were going to be wide enough, convenient, and easy.

City Engineer Struve stated any facility proposed would be able to handle the large semi-trucks that were used.

Council Member B. Mata asked if the U-turn could handle the largest semitrucks.

City Engineer Struve stated the design would be for that kind of truck and to pursue the restricted crossing U-turn, they would need MnDOT approval.

Council Member Gates stated it was not looking at the future. He stated it was looking at the east side and was not looking at the west side of Highway 169. He stated at some point, the

west side would be developing, and asked if that traffic was going to have to fit on the bridge too. He stated the moment they put the bridge in, people from other cities would want to use it and they must count that traffic. He stated that anything that reduced the capacity was ridiculous. He asked when reducing the radius of the ramps, what did that do to a truck trying to get up on the ramp.

City Engineer Struve stated when reducing the radius, it effected the speed and there would be an on and off the ramp and navigating the corners at a slower speed.

Council Member B. Mata asked if MnDOT was confident about the looping back and forth, the acceleration to get on the highway, and lowering speeds.

City Engineer Struve stated that on the escape lane, with semis that didn't accelerate that fast and the amount of traffic that was on Highway 169, that escape lane was needed to get up to speed. He stated the bridge was going to appear closer to the right of way and narrower.

Traffic Engineer Holstein stated it was a cost, because the bridge was \$250 to \$300 a square foot and any way to reduce the length or the width of the bridge, it would be a cost savings.

City Engineer Struve stated regarding the comment about not factoring in the west side, every design was 2040 numbers which was anticipating a full buildup of that entire area, which included the east and west side of the intersection. He stated it did have an inflator for the growth of the use of the interchange

Council Member Gates stated if there was anything he would be in favor of, where they could save money, it would be the abutment and was the only thing that made sense. He stated he did not support roundabouts.

Council Member B. Mata asked what the radius of the ramp coming from TH610 onto Highway 169 headed west bound/northbound would be. He clarified west bound TH610 onto south bound Highway 169.

City Engineer Jesse Struve stated it was a tight radius.

City Council Member Pha stated she did not like the "outcuts" and a roundabout there would be okay. She stated she didn't know about reducing lane width on 101<sup>st</sup> Avenue and the City knew they were going to have trucks. She thought the width should be wider than what was proposed.

City Manager Stroebel asked to clarify if Council Member Pha supported the roundabouts in that area.

Council Member Pha stated yes, she supported the roundabouts in that area.

Traffic Engineer Holstein stated significant benefits of a roundabout aside from the cost savings was the safety. He stated the fatalities dropped by 90%, injuries went down 50%, and property damage went down 30%. He stated that as a safety topic, roundabouts were significantly safer than signal lights.

Council Member Parks stated he was in favor of roundabouts, was not in favor of the U-turns and was not convinced on the narrowing of the lanes.

City Engineer Struve stated plans had not been finalized and were very early in the plan development. He stated the Council's input would influence the design of that intersection and felt strongly in supporting the narrowing of the widths.

Traffic Engineer Holstein stated it was for the 101<sup>st</sup> Avenue to Jefferson Highway where they didn't expect that many trucks.

City Engineer Struve stated that would have a three-lane section with a turn lane down the middle. He stated with a two-foot reactionary zone, if a vehicle moved into that, and was not comfortable being that close to the curb and they got in that turn lane, generally it wouldn't be an issue.

Council Member Parks stated if they were placing saving cost over safety then he was not in favor of the project.

City Engineer Struve stated with the lane width reductions, that was one way to reduce speeds.

Mayor Lunde stated if people crunched numbers of the capacity, the speeds, and the vehicles could that could handle the roundabout and he supported the roundabout. He stated it was a destination for workers, and that was a residential area, and people were going to figure it out after a few times.

Mayor Lunde stated Traffic Engineer Holstein said when they had traffic signals, it increased the fatality and the impacts were perpendicular. He stated that if it was safe and held capacity, then roundabouts were safer. He asked if the church gave any feedback on whether they wanted the walls or not.

Traffic Engineer Holstein stated they had not heard from Grace Fellowship Church about the walls. He stated they were intending on doing full slope and then see what type of impacts there were on their parking lot because they would be removing two exit points off 101<sup>st</sup> Avenue, which they were now going to have to exit onto Xylon.

City Engineer Struve stated there were no definite designs made. He stated there might be a benefit to putting a wall to reduce some of the impact to Grace Fellowship Church. He stated once they got to that point, they would have more conversation with them.

Mayor Lunde stated he would rather defer any feedback until after Grace Church gave some feedback. He agreed with the roundabouts.

Traffic Engineer Holstein stated there was a small risk to roundabouts, if traffic blew up and they got another corporate user out there, they could have issues long term, and their best guess was that it would work.

Council Member M. Mata stated he supported roundabout because it cut down on stop lights. He stated he did not support the U-turns and did not support reducing the bridge.

Council Member Jacobson stated she would like to see worst-case scenario numbers on the bridge. She stated she would like to see how to find funds for those developments. She stated she would like to see more involvement from the school district and developers and would like to see the funding come from other sources and not just the city.

Mayor Lunde, stated 75% of the budget came from outside sources and the city had the state money, bonding money, and the Met Council money.

City Engineer Struve stated they were currently at \$22.5 million of the projected \$31 million project. He stated about \$18 million came from grants MnDOT administered, and \$7 million was federal. He stated they were asking MnDOT to do the construction administration which was \$1.5 million, and currently had an \$8.5 million gap.

City Manager Stroebel asked if the Council ever envisioned MnDOT would meter any of those on and off ramps. He stated the reason he asked, there was a scenario where they put in meters and had the free-flowing traffic and it backed up and closed the roundabouts.

Traffic Engineer Holstein stated it would be consistent with the triangle at 93rd Avenue where they did not put in HOV bypasses seen along TH610. He stated for MnDOT to come back and meter, they would need to modify things, and his initial reaction would be no.

City Manager Stroebel asked if there was a stop light on 109<sup>th</sup> Avenue, which was too far north.

Traffic Engineer Jeff Holstein stated yes.

City Engineer Struve said from everything they had heard, MnDOT had not raised that scenario at this point, and they could not anticipate they would, but they could not say yes or no.

Council Member B. Mata stated he did not see the future project to handle the current traffic none the less any growth in the future.

Council Member Gates asked if people were saying they were okay with the roundabouts, but they were not okay with the two lanes.

Traffic Engineer Holstein stated if they had to put in a two lane roundabout, then they lost most of the cost savings because of the four lane bridge and the city would have some cash savings and some savings on the bridge.

City Engineer Struve stated worst case scenario, they would have the engineering firm, SRF, look at the assumptions they made with the traffic analysis. He stated with the numbers they had seen, it looked like they had the worst-case scenario based on the zoning in that area. He stated the two-lane option with a single roundabout would be enough to handle the projected traffic in the 2040 numbers. He stated if they looked at it, the majority of the Council was not in favor of reducing of the lanes. They could do some analysis on it as well, but they would not be in the \$2.5 million saving range by installing two lane roundabouts, it would impact the south and right of way impacts.

Council Member Gates stated if it was two lanes and it backed up in any direction now, they couldn't get through the roundabout and now were blocking the entire road. He stated they all

knew it was going to back up because they knew what that road looked like. He stated going northbound, it did not move, and it backed up to 85th Avenue and was non-construction doing that.

Council Member M. Mata suggested the engineers do the study by making it 2040 today, he stated that in two Council meetings from now could change the zoning and that could change the whole traffic of the area. He stated he would like to see some real-life worst-case scenarios.

Council Member Pha agreed into seeing more information on the two-lane roundabouts and the four lanes, and the cost saving data.

City Engineer Struve stated there was some support for the roundabout, the Council would like to see additional analysis and review of the traffic scenarios and analyze where the two-lane roundabouts with a wider bridge section was enough.

City Council Member B. Mata asked if they had a two-lane roundabout and were headed west bound on 101<sup>st</sup> Avenue, and wanted to go north bound on Highway 169, but were stuck in the inside lane and then were going around the roundabout many times.

Traffic Engineer Holstein stated they could take the through lane.

Mayor Lunde suggested bringing a timeline next time.

City Engineer Struve stated they would be returning very quickly so that the design could move forward.

### **C.3 Panhandling Discussion**

Police Chief Craig Enevoldsen gave a brief update on panhandling. He stated earlier in the summer, a neighboring city passing an ordinance that prohibited someone from standing on a roadway median for an extended period of time and only selected busy roadways were selected. He stated the ordinance was that an individual could not stand on the median of intersections with higher speeds and higher traffic for longer than two cycles of the light. If they did, they were in violation of the ordinance.

He stated he sent a copy of the ordinance to the City Attorney and Prosecutor for a review. He stated they did not support the ordinance. He stated the prosecutor suggested the ordinance to vet itself through the criminal justice system and saw some issues in the way it was written that it would be challenged as a constitutional issue.

Police Chief Enevoldsen stated if it occurred in the City, it could cause individuals to come into the city and could have the same type of behavior that was troubling Brooklyn Center. He stated it was adopted in St. Louis Park to enforce current traffic regulations to address panhandling, specifically MN statute 169.22, which prohibited standing on a roadway for the solicitation of business or contributions. He stated the Police Department spent one week approaching all panhandlers in the area and gave them information related to the statute and the resources that were available. He stated they began the enforcement effort August 20 and the City had moderate success, three citations were written after the warning and the grace period. He

stated of the three citations, two were given to the same individual and one individual got the message.

Police Chief Enevoldsen stated the citation was a petty misdemeanor and could become a misdemeanor if the individual endangered life or property with their behavior or if they had two prior convictions for the petty misdemeanor within the previous twelve months, and would not be an arrestable offense. He stated all that accomplished was waiting for the individuals, whom technically could stand on the median, once they stepped on the roadway and were seen by the officer, that was when they could be approached with the citation after the grace period. He stated they observed it three times since the grace period. He stated what the enforcement did was to get them off the median and they moved off to the side of the road and on a sidewalk, which was a constitutionally protected act. He stated the ordinance was for the safety of the motorist and the safety of the individuals standing on the side of the road.

Council Member Terry Parks asked how the first amendment tied in with the topic.

Police Chief Enevoldsen stated a city could not prohibit panhandling within a city. Holding a sign was a protected act and was a freedom of speech. He stated Minneapolis had passed an aggressive panhandling act that prohibited individuals from panhandling where it could make people feel unsafe, such as in front of stores and ATMs. He stated if the individual was approaching people and not taking no for an answer, and touching people, was a violation.

Council Member B. Mata asked what if they were leaving and going into the crosswalk.

Police Chief Enevoldsen stated that if the officer observed the action of stepping off the median and into the crosswalk to leave, they would not approach them. If they walked off the median to walk up to a car, then they would approach them.

Council Member B. Mata stated the handout explained the citations starting at a \$103 and thought that was over the amount they could handle. He stated then a 90-day jail time with a \$1,000 fine, if they couldn't pay the fine. He asked if they kept them in jail.

Police Chief Enevoldsen stated it was a guideline. If the panhandler agreed to go to court, it would not happen. He stated it would start at \$103, and if they were homeless, the judge could waive the fee.

City Attorney Thomson stated the law was that the City couldn't pass a regulation that bans an action that was based on the content the person was doing. He stated that rule was about the median and was not directed at panhandling but everyone who might use the median.

Council Member Pha stated they should adopt something that would hold up in court and could be enforced. She stated what Brooklyn Center had in place and started in August, she was comfortable with it. She stated if the City went beyond that, she would not be comfortable. She stated the first time, they would get a warning, and the second time the City would give them a citation. She was concerned some individuals might not know the ordinance.

Police Chief Enevoldsen stated that was the purpose of the one-week grace period where they identified as many as they could and gave them the resources, the statute information, and then a warning. He stated if they saw the same person again, they would be given a citation. He

stated it was not possible to keep records of all the individuals coming into the city to panhandle. He stated some may receive a citation on the first time.

Council Member Gates wanted clarification on certain areas in the city where it could not be enforced.

Police Chief Enevoldsen stated that would have no effect on it. He stated the panhandlers would be standing on exit ramps, and the ordinance would not prohibit that activity but prohibited them from going on to the road and placing themselves and the motorist in danger.

Council Member Pha stated Brooklyn Center had very few sections and was not going to solve a big issue because it was limited to certain areas.

City Manager Jay Stroebel asked for clarification of private property and in other communities.

Police Chief Enevoldsen stated, Maple Grove as an example, that the Arbor Lakes area was having issues. Arbor Lakes was private property and if the property owners didn't want panhandlers on the property, then they could resolve that issue by stating it was a trespassing issue, and that was how they resolved those issues. He stated trespassing was an arrestable offense.

Council Member M. Mata asked if it was on private property and it had 15 feet of easement that was still a part of the street, or if it was a private road going through that property, could they ask them to leave the property.

Police Chief Enevoldsen stated the police would be giving a trespassing notice in that case.

#### **C.4 Update on Project Hotdish**

Mayor Lunde stated the Planning Commission had their public hearing to discuss their thoughts and the pro/con on the subject. He stated Council had not been released from those responsibilities and still needed to wait for the public hearing.

Council Member Pha complimented Planning Director Cindy Sherman at the Planning Commission meeting. She stated many people came up to talk about the Hot Dish project and was impressed by Planning Director Sherman's decorum and handling the crowd. She stated it was not an easy position to be a staff member that night, and some of the hostility was directed toward Planning Director Sherman, but she held herself in a very professional manner. She stated she was glad they had someone with the depth of knowledge that Planning Director Cindy Sherman had with the City for 20 years.

Planning Director Cindy Sherman outlined the history of the Hot Dish Project. She presented a map that showed the balance of the North Park area that was subject to the development plan that was in place and was requested for an amendment. She stated the area was 72 acres where Hot Dish would be. She stated the map showed the notification up to 1,200 feet on Champlin and in Brooklyn Park to show the affected people were notified. She stated they had six signs around the perimeter of the property and then did an email blast to the two neighborhoods.

Council Member Jacobson asked for clarification on what the notification requirement was.

Planning Director Sherman stated laws required 350 feet notification and the City's policy was 500 feet and more than doubled it. She stated the Planning Department used the notification list through Community Engagement to send out an email before the meeting.

Council Member M. Mata asked if that notification went to a different jurisdiction other than the City of Brooklyn Park.

City Attorney Jim Thomson stated the statute didn't distinguish it and had been the practice.

Planning Director Sherman stated they must notify the other city and that city was responsible for contacting and communicating with the residents, but in this case, the developers sent out the notification for the neighborhood meeting and the City sent out the notifications for the public hearing. She stated the public hearing costs were charged back to their escrows. She stated the area had a section which was designated for industrial or a business park development. She stated it expanded when the plans were modified in 2015 and the 223 acres were changed to Business Park, which was changed through the Comprehensive Plan amendment. She stated the 2030 plan showed a portion of it, and the 2030 planning effort was done in 2013 to 2014 time frame. She stated it was a study of all the vacant land in the community, with a 13-15 member task force that went through a months-long process to look at what the community wanted to see in the remaining undeveloped land. She stated at that time, it was 1,200 acres and now it was at 1,000 acres of undeveloped sites. She stated they had identified the North Park areas and north of the Rush Creek Trail. She stated the area known as North Park was business park and would help with job creation. She stated the area around the Target campus was an urban intense development. She stated there would be a mix of use in a suburban context in the Zane and Oak Grove area with jobs and single users being the focus and south of TH610, and gave examples of Hy-Vee, Star Exhibits, Prairie Care and a Medical Facility. She stated it outlined the vision for that part of the community. She stated it was the approved 2015 development plan. She referred to Winnetka and 109th Avenue on the left of Highway 169 at the bottom. She stated the intent and vision of the plan were multiple plans that could be single tenant or multiple tenant buildings and was not defined. She stated it laid out the roads and the massing of ponds, and Xylon Avenue was in the center of the site. She stated what was being proposed was Scannell Properties modification to the plan and to continue with the main road south of the site. The plan reflected what was constructed and new construction for a new building, as well as, a single use building, and two buildings, which had been approved for a single tenant user, which was 40 to 45 feet tall.

City Council Member Jacobson asked when it was approved.

Planning Director Sherman stated it was approved in 2016, which was extended in 2017. She stated if they did not start building, they needed to start over with a site plan review because it would expire. She stated when Hot Dish came in, Scannell Properties came in on their behalf because Scannell Properties would continue to own the property and lease it to Hot Dish and they had not leased it yet. She stated she was briefed on the proposal about seven buildings that were anticipated in that location, which would be replaced with one larger building. She stated there were no restrictions in height for that location and in a Development Plan.

Council Member M. Mata asked what the typical traffic from trucks would be.

Planning Director Sherman stated traffic studies showed a reduced traffic based on the user, but the International Traffic Management Manual changed its guidelines.

Council Member M. Mata wanted clarification if the traffic would grow.

Planning Director Sherman stated the study considered that scenario and today's scenario was less; that was because it was based on the study's new process.

City Manager Stroebel stated they were projecting significantly less vehicle trips under the revised scenario.

Planning Director Sherman stated the traffic happening now could be comparable. She stated with the analysis done, it showed a decrease in all traffic and was accurate. She stated there were three different access points for the parking lot. She stated there was discussion at the Planning Commission meeting about the difference between a fulfillment center versus a distribution center. She stated that between Champlin and Brooklyn Park, there were two buildings. She stated that in lieu of the seven buildings in that situation, she didn't think it was a bad thing to have one building that was taller. She stated the original plan had 21 buildings and now with the changes with the two buildings, the numbers would be less. She stated the proposed plan was 14 buildings, which was around one million square feet. She stated the gain was going vertical and not out for the square feet.

Council Member M. Mata asked if one of the intersections was controlled.

Planning Director Sherman stated yes and when they did the traffic study, they did short term, mid-term and long term. She stated after the Planning Commission meeting, the developer stated they had interest in making modifications for the building to be more palatable to the site. She stated one problem was having a large site and the impact on the roads. She stated tonight they were giving the Council an update and asking for direction for that location.

Council Member M. Mata stated part of the designs did not look like an office building all the way around. He wanted to see buildings look inviting, have design fill in the blank walls, was worried about its marketability down the road, and concerned about the traffic.

Mayor Lunde stated at the Planning Commission meeting it was handled well by Planning Director Cindy Sherman. He was unaware of the 45-foot building across the street and requested the copy of the future plans for Winnetka Avenue.

Planning Director Sherman stated they did not have a design other than an idea of what the County was thinking, which was one lane each direction with a single turning lane.

Mayor Lunde stated he would like to see that because he wanted to be able to communicate that to the residents.

City Council Member M. Mata asked if that was the cove from 107<sup>th</sup> Avenue because the road wasn't marked at the top of the map. He stated he spoke to the developer of the Cove about leaving trees on the Winnetka side and asked if they were the ones that took the trees out.

Planning Director Sherman stated yes, because of the road construction five years later might be better to remove it all and replant.

Council Member Parks stated he was glad to hear Scannell Properties was listening to the people and were working on another plan. He was also at the Planning Commission meeting and one of the comments he heard was it was sad that the Council Members weren't there. He stated there were four at the Commission meeting. He also complimented Planning Director Sherman on how she handled the meeting.

Council Member Pha asked when the buildings were in, did they anticipate Winnetka Avenue could handle the traffic with two lanes and a middle turn lane or did they need to upgrade to a four lane.

Planning Director Cindy stated with all the roadway improvements in place including Xylon Avenue, and a new interchange, and when Winnetka Avenue had to handle the traffic where the Blue Line construction was, it was a different design. She stated the two lanes were through the Rough Creek Trail. She stated the engineering team had applied for grants on Xylon Avenue where it would be a grade separated trail at the expense of the developer to make the trail extension.

City Manager Strobel stated at Oxbow and Winnetka the developer would put in a signalized intersection, which would help Winnetka Avenue control the traffic.

Planning Director Sherman stated the turn lanes would assist with traffic and restriping and lights would assist with the flow. She stated if they made that road connection, the only thing that needed to be added was elongating the right turn lane at that location. She stated the developers were not looking to connect that connection until they figured out improvements for 109<sup>th</sup> Avenue.

Community Development Director Kim Berggren asked if Planning Director Sherman could explain truck traffic and how it was planned.

Planning Director Sherman stated one of the things they designed after the interchange was done, they would come in and take a right hand turn on Oxbow Drive and series of medians in the middle of the road that would direct them into the lot and then a gate to check everyone in and check them out. She stated trucks would be directed in that way and back out. She stated the driveway that connected to the dock area was not designed to support regular traffic.

Council Member B. Mata asked if it was going to be a right turn only which would force traffic to go back to Xylon Avenue.

Planning Director Cindy Sherman stated it was going to be a right turn only.

Council Member M. Mata stated he was concerned with people taking short cuts through residential to save time because of the backups.

Planning Director Sherman stated that concern would have to be addressed when the buildings were built. She stated some of the buildings might have low level truck use and some might

have higher and was based on the users. She stated there wouldn't be any reason to go into the residential area, and if there was an issue, the City could post a "no truck zone" sign.

Council Member Jacobson asked if the employees would all have the same shift, or would they be different that would affect the traffic.

Planning Director Sherman stated she had researched the employees per square foot and would email that information to the Council. She stated part of the job creation goal was how many jobs were they creating and how many shifts did they give. She stated with Target as an example, it was staggered shifts and that was what was recommended for Hot Dish.

Council Member Jacobson stated they got feedback about living wage jobs and there was a chart from Hennepin County on Living Wage, which showed how much a single individual livable wage was versus the livable wage for a single plus a child. She was interested in knowing if they were living wage jobs, and were the only living wage jobs with single person without a child.

Council Member Pha stated she would like information if they were full time and if they had benefits.

Planning Director Sherman stated Scannell Properties could give information on the jobs.

Council Member Jacobson stated she would like to know the information from already formed businesses to have something to compare. She stated she would like to be prepared with the information if someone asked her for it.

She stated she also heard if there were any potential employers who were putting job postings out and asked if that was a separate thing.

Planning Director Sherman stated Amazon had signed a building lease on 9000 Wyoming and that company had been posting jobs but that was a separate facility.

Council Member Gates stated they had to be careful asking for that information and they couldn't deny a user and gave Walmart as an example.

Council Member Jacobson used Burger King as an example, she stated when a business came to the Council, they didn't get to say no because it was Burger King because people wanted salads and that was not the place of the Council.

Mayor Lunde wanted to confirm that the conversation would not be at the next Council meeting. Planning Director Cindy Sherman stated that in talking to the developers, they wanted to address some of the concerns from the Planning Commission meeting and they were not looking to come to the October 8, 2018 meeting because they could not compile that information that quickly. She suggested letting the residents know with flyers.

Council Member Jacobson stated to be careful with the language used because they would not be having a public hearing at the Council meeting but would take comments.

Planning Director Sherman stated it was an open meeting, but it was the Mayor's prerogative to

let people speak or not.

Community Development Director Berggren stated they would not be having a public hearing because that occurred at the Planning Commission meeting.

City Manager Stroebel stated if they had any questions or suggestions, to let Planning Director Sherman or himself know.

Planning Director Sherman stated she was getting emails and City Manager Stroebel was good about getting them to her and the Council and they were trying to compile them. She asked the Council if they got something, it was a part of the public record and to get them to her.

Mayor Lunde stated he would let the public talk on Monday, and would stick to the time limit.

D.1 COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS – None.

D.2 CITY MANAGER REPORTS AND ANNOUNCEMENTS

City Manager Stroebel stated the Operations and Maintenance Department had their Open House on Saturday. He stated 370 individuals came to the Open House, which was the biggest attendance the City has ever had. He stated that this Saturday, the Fire Department would have Open Houses at all four stations from 12:00 p.m. to 3:00 p.m.

E. ADJOURNMENT

ADJOURNMENT – With consensus of the Council, Mayor Lunde adjourned the meeting at 9:22 p.m.

JEFFREY JONEAL LUNDE, MAYOR

DEVIN MONTERO, CITY CLERK

REGULAR BROOKLYN PARK CITY COUNCIL MEETING

Monday, November 26, 2018  
7:00 p.m.

Brooklyn Park Council Chambers  
5200 85th Avenue North

CALL TO ORDER – Mayor Jeffrey Lunde

PRESENT: Mayor Jeffrey Lunde; Council Members Rich Gates, Susan Pha, Terry Parks, Mark Mata, Bob Mata and Lisa Jacobson; City Manager Jay Stroebel; City Attorney Jim Thomson; Community Development Director Kim Berggren; Finance Director LaTonia Green; Deputy Police Chief Todd Milburn and City Clerk Devin Montero.

ABSENT: None.

Mayor Lunde opened the meeting with the Pledge of Allegiance.

2A RESPONSE TO PRIOR PUBLIC COMMENT – None.

2B PUBLIC COMMENT

1. Jennifer Geisinger, 7701 Oxbow Creek Circle. Concerns with truck traffic on Winnetka between the small sort facility and proposed project Hotdish.

3A. MOTION GATES, SECOND PARKS TO APPROVE THE AGENDA AS SUBMITTED BY THE CITY CLERK. MOTION PASSED UNANIMOUSLY.

3B PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS

3B1 Park and Building Maintenance Manager Greg Hoag briefed the Council on the contribution to the city from the Brooklyn Park Rotary Foundation.

3B1 MOTION JACOBSON, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2018-162 ACKNOWLEDGING CONTRIBUTIONS TO THE CITY OF BROOKLYN PARK OF \$3,500 FROM THE BROOKLYN PARK ROTARY FOUNDATION AND \$2,520 FROM TREE TRUST. MOTION PASSED UNANIMOUSLY.

3B2 Parks and Facilities Manager Brad Tullberg briefed the Council on the Partnership in Construction of Wheelchair Softball Field Storage Building at Northwoods Park.

3B3 Budget Advisory Commission Annual Verbal Report

Budget Advisory Commission Chair Eric Pone gave the Budget Advisory Commission Annual Report.

4.0 MOTION GATES, SECOND PARKS TO APPROVE THE FOLLOWING ADMINISTRATIVE CONSENT ITEMS:

- 4.1 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-163 TO APPROVE STAFF TO ENTER INTO THE 2018-2019 AGREEMENT WITH THE LAW ENFORCEMENT LABOR SERVICES UNION, LOCAL 429.

4.2 TO APPROVE THE RETIREMENT HEALTH SAVINGS PLAN AS REVISED.

4.3 TO RELEASE THE REMAINING ENGINEERING ESCROW \$2,827.98 AND CASH BOND \$10,000 FOR SATISFACTORY COMPLETION OF THE 96<sup>TH</sup> AVENUE EXTENSION PROJECT #16-002 LOCATED NORTH OF 610 AT ZANE AVENUE FOR OPUS.

4.3 TO RELEASE THE ON-SITE PERFORMANCE BOND #106790526 (\$339,600), RELEASE THE OFF-SITE PERFORMANCE BOND #106790527 (\$13,500), REDUCE THE CASH BOND BY \$8,500 AND REDUCE THE ENGINEERING ESCROW \$8,780.62 FOR SATISFACTORY PROGRESS OF THE 610 ZANE RETAIL DEVELOPMENT PLAN AND PLAT PROJECT #17-113 FOR RYAN COMPANIES.

4.3 TO RELEASE THE ON-SITE PERFORMANCE BOND #106912911 POSTED BY TRAVELERS (\$171,000) FOR SATISFACTORY PROGRESS OF THE "610 ZANE RETAIL BUILDING" PROJECT #18-101 LOCATED AT 5901 94<sup>TH</sup> AVENUE FOR RYAN COMPANIES.

4.3 TO RELEASE THE ON-SITE PERFORMANCE BOND #106841456 POSTED BY TRAVELERS CASUALTY (\$145,600), REDUCE THE ENGINEERING ESCROW BY \$4,496.07, AND REDUCE THE CASH BOND BY \$4,600 FOR COMPLETION PROGRESS OF THE "MILL CITY CREDIT UNION" PROJECT #17-128 LOCATED AT 5941 94<sup>TH</sup> AVENUE N FOR MILL CITY CREDIT UNION.

4.3 TO RELEASE THE ON-SITE PERFORMANCE BOND #1068249 POSTED BY HANOVER INSURANCE (\$1,021,500), REDUCE THE ENGINEERING ESCROW BY \$30,147.62, AND REDUCE THE CASH BOND BY \$50,700 FOR COMPLETION PROGRESS OF THE "AMAZON" PROJECT #18-002 LOCATED AT 9100 WYOMING AVE N FOR BROOKLYN PARK PAPER LLC.

4.3 TO RELEASE THE SITE IMPROVEMENT BOND #268009352 POSTED BY LIBERTY MUTUAL (\$1,230,200), FOR SATISFACTORY PROGRESS OF THE "CAPSTONE QUADRANGE EAST AND WEST BUILDINGS" PROJECT #17-126 LOCATED AT 9301 AND 9315 WINNETKA AVE N FOR CQ BROOKLYN PARK LAND, LLC.

4.3 TO REDUCE THE ENGINEERING ESCROW BY \$32,931.02, AND REDUCE THE CASH BOND BY \$49,800 FOR SATISFACTORY PROGRESS OF THE "COVE AT NORTHWOODS PARK" PROJECT #17-108 LOCATED AT THE SE CORNER OF WINNETKA AND 109<sup>TH</sup> AVENUES FOR LANDMARK 55 OF BROOKLYN PARK LLC.

4.4 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-164 APPROVING A TIME EXTENSION FOR A TWO-BUILDING 16-BED RESIDENTIAL CARE FACILITY AT 9235 ZANE AVENUE NORTH.

4.5 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-165 TO AUTHORIZE THE MAYOR AND CITY MANAGER TO ENTER INTO A CONTRACT WITH GAME TIME AND MINNESOTA/WISCONSIN PLAYGROUND FOR THE

REPLACEMENT OF THE PLAYGROUND EQUIPMENT AT NORTHERN TRAIL PARK FOR A TOTAL COST OF \$51,201.36.

4.6 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-166 AMENDING LOAN DOCUMENTS EXECUTED IN CONNECTION WITH THE MULTIFAMILY HOUSING REVENUE NOTE ISSUED FOR THE BENEFIT OF AMORCE I LIMITED PARTNERSHIP; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDMENT DOCUMENT IN CONNECTION.

MOTION PASSED UNANIMOUSLY.

6.1 Planning Director Cindy Sherman briefed the Council on the Shah Variance – Variance Request #18-124 to Allow Increase in Residential Garage Height to a Total Height that is Taller than the House.

The following individuals addressed the Council:

1. Dan Ekstrum, 7201 Idaho. Stated he was confused how they had an architect draft it, which was out of compliance before submitting it to the city. He asked why the builder didn't catch it before construction because he must have had the list of what the codes were and it still got built. He stated everyone was trying to minimize the size of the building and said that garage was out of size with the neighborhood and stood out. His concern was that it would affect his property value and that it sat 3.5 feet higher than his house not 9 inches and was way out of compliance.
2. Mike, Michellio, 7208 Idaho Avenue. He stated when learning of the process and how it was approved and construction began, that it never should have started because the plans called for an 18-foot structure in height. He was dismayed at the procedure of how they could get to that point. He stated there was a line in the resolution that said, "WHEREAS, the planned garage is consistent with other three car garages found in neighborhood and is not overly out of place." He stated he had a three-car garage across the street and the height was 16 feet and was not consistent with other three car garages in neighborhood. He stated it had been frustrating to know that there was a code in place and something like this happened and now was at the point where the Council was prepared to issue a variance. He stated it should never have happened and never at 18 feet in the first place, let alone 18 feet, 9 inches.

Planning Director Sherman stated mistakes were made. When the building permit came in, she looked at it and it said 18 feet and the ordinance said it could have 18 feet or the height of the house whichever was less. She stated most of the garages they looked at were accessory structures at properties where houses were taller than 18 feet. She stated it was her mistake to sign off on the permit and then it snowballed from there with the additional height that was added to the garage. She stated it was a lesson for her as they did thousands of permits a year and didn't have many mistakes. She stated it was on her and not on the Building Inspectors because they just reviewed the plans and staff reviewed and signed off on all the permit applications that came through.

Council Member Bob Mata stated he saw it a block away and saw a huge monstrosity from the backside in that neighborhood. He stated it was taller than a house and was up long before

it was brought before the Council tonight. He stated there were ordinances and needed to be followed. He stated there was an 18-foot garage height but they still went over and above it to bring it to another extra 9 inches. His recommendation was to get the builder back out there and cut the roof off and get it down to 18 feet. He stated he would like to see it at 16 feet, but if staff said okay on 18 feet, then they couldn't take it off for that. He stated it went over and above from what they originally had approval for and should take the roof down at least 9 inches if they couldn't get it down to 16. He stated it should have never proceeded without measuring and doing it right, especially after getting a variance. He stated he would not approve another 9-inch variance on the roof and knew it would cost the owner and they should take it out on the builder because the builder put it up and should have been able to do it right.

Council Member Parks stated he would not support it tonight. He stated they had a monstrosity too in his neighborhood and should have never been passed. He stated there were one-story houses down the block and now had a three story one that stood out. He didn't think a garage should be the tallest building in the neighborhood. He stated he knew a mistake was made and it happens and didn't know if it would cost the city down the line, but he would not support the 18-feet, 9-inch garage.

Council Member Mark Mata stated that on several street corners where a house sat on the corner that both sides were supposed to adhere to the one third stone, brick or stucco so it was architectural pleasing from both sides. He stated that several times it failed and didn't get caught and the house was now built. He stated the city had areas where design guidelines called for architectural shingles and someone put up three tab shingles on the roof. It was already up and didn't force them to take it down. He stated the ordinance said the auxiliary structure could not be taller than the house and didn't matter what was signed off on. He stated that unless it was the first garage they built, once they put up an eight foot door there, they should look over at the house where the roof line was going to be and they should know that. He stated the auxiliary structure was supposed to look like the house. He stated he couldn't support the variance and builders knew what they were doing. He suggested a way to figure out the checks and balances in the future in the Community Development and Planning Department where it didn't happen. He stated there were ordinances, and the past, present and future Councils expect them to be followed as did the citizens expect them to be followed.

Council Member Jacobson stated she struggled that the builder was asking for forgiveness after the fact rather than following the rules, which was 18 feet versus 18 feet 9 inches. She asked if the city had situations in the past where the builder did what they wanted and the city said no and they needed to go back and fix it.

Planning Director Sherman stated in her 16 years, it was the first building permit mistake they signed off on that was incorrect. She stated they had covenants in neighborhoods and sometimes that became an issue. She recalled two other garages built without permits that ended up being taller than the houses. In those cases, one applied for a variance and did not get it and refused to remove the structure. Without going through a long protracted court case, the city couldn't make them do it unless they sold their house or refinanced it, or they wouldn't be able to get a zoning letter that said they were in compliance. She stated the other case was unresolved because they knew the city would be acquiring the property for a future interchange. She stated those cases were for accessory structures and tonight's case, the garage size was fine and that was not going to change. What would have to be modified was the roof design to make it meet the ordinance at 16 feet, 3 inches.

Council Member Gates stated that since the city made the mistake and said it was okay at 18, and the city denied it tonight, asked if there was any recourse from the homeowner against the city because the city made the original mistake.

City Attorney Thomson stated there could be and would have to look into it because it could get complicated. He stated there were precedent cases going both ways on cases like tonight's item. He stated one was where the city was stopped from enforcing the regulations because they had taken steps to do it, and the another was where they said no, it was a mistake, but they were governed by it. He stated he would need to take a longer look at it to make sure of all the facts on it.

Council Member Gates stated that by not having an answer to that question if the city was liable for part of it, because it was the city's fault to begin with, that it changed the game for him. He stated if the city was liable and if the city had to pay in some way or another or the court said the city made a mistake and it could stay like that, he didn't know what the answer was.

Planning Director Sherman stated the city made a mistake, but they exacerbated it by making it even taller and did not build it according to the permit.

Council Member Gates stated the city said 18 feet and was liable up to 18 feet and not what they were asking for. He stated the variance was for the difference and the city was still liable for part of it.

City Attorney Thomson stated the city wouldn't be liable for monetary damages. He stated the only thing a court might say was the city was prevented from enforcing the regulation under the facts of this case. He stated the options for Council tonight was to grant the request, which was 18 feet, 9 inches, or granting only to 18 feet, or if the Council's preference was not to do either one of those two, suggested to direct staff to come back with a resolution for denial because there was no resolution for denial before the Council tonight and assumed they were still within 60 days provision on it.

Planning Director Sherman clarified that the structure was at 18 feet, 9 inches in height, but it was 3 feet, 6 inches taller than the house. She stated the variance was for 3 feet, 6 inches.

#### 6.1 MOTION MARK MATA TO DENY THE VARIANCE FOR A RESIDENTIAL GARAGE HEIGHT WITH AN INCREASE OF.

Mayor Lunde stated they could vote it down and staff would come back to the Council with that motion. He stated the Council had to have findings for the denial.

Council Member Mark Mata withdrew the motion.

City Attorney Thomson stated he was not sure if Council Member Mata was going to deny the variance at 18 feet, 9 inches, but allow it at 18 inches, or deny it at its entirety. He stated he wasn't quite sure what the result was going to be.

Council Member Mark Mata stated he was going to deny it at 18 feet, 9 inches, and then go back to what it should have been because the ordinance said the house could not be taller than the garage.

City Attorney Thomson stated if that was the wishes of the Council, the appropriate motion would be to direct staff to come back with a resolution for denial.

6.1 MOTION M. MATA, TO DENY THE VARIANCE TO RESIDENTIAL GARAGE HEIGHT INCREASE ABOVE HOUSE HEIGHT AT 7209 IDAHO AVENUE NORTH.

6.1 THE MOTION FAILED FOR A LACK OF A SECOND.

Planning Director Sherman stated what they were asking for was to have Council direct staff to come back with the findings to deny the variance and and would bring it back December 3 with findings to deny it.

City Attorney Thomson stated a variance was a variance from the ordinance standards. The ordinance standard tonight was the garage could not be any higher than the house. He stated if a majority of the Council did not want to grant the variance to allow the garage to be taller than house, they should direct staff to prepare a resolution to that affect and come back at the next meeting. He stated if the majority of the Council was to allow a variance up to 18 feet, they could take that action tonight.

Council Member Bob Mata stated that even though it was a mistake to give them the 18 feet height on their plans, they violated it by going 9 inches taller, so now all bets were off and now had to go back to the original one. He asked if the Council could put the motion on the floor and then vote it down.

City Attorney Thomson suggested the motion to direct staff to come back with a resolution for denial with the appropriate findings.

6.1 MOTION B. MATA, SECOND PARKS TO DIRECT STAFF TO COME BACK WITH A RESOLUTION FOR DENIAL ON ANY VARIANCE ON THE HEIGHT TO THIS GARAGE.

Mayor Lunde stated he would not support the motion. He stated the city made a mistake and owned up to the mistake. He stated it was 9 inches over and knew they approved fence lines that had been inches closer than they should have been to the street and other things that had been down to the inches. He stated he knew it was 3 feet and it was still 9 inches over what staff told them. He stated he would not know what the ordinance would be of his house if he was going to build a garage. He stated he would go to City Hall and ask staff and would get his information and that was what they did. He stated he believed they were in good faith and did 18 feet. He stated he was not willing to punish residents because of what the city had done, and could think of driveways, a fence on Edinbrook Parkway, a fence on Oxbow Creek Parkway where it was inches. He stated they were approved at 18 feet and they went 9 inches over and didn't think it would affect the house value. He stated he did not notice it was taller and to him it was about 9 inches and not about 3 feet, 6 inches. He stated that person had invested in their house and spent money on their property and acted in good faith at every step of the way. He stated he would not support the motion.

Council Member Pha agreed with what the Mayor had said and for her it was the 9 inches. She stated she would support bringing it back to 18 feet and asking the builders to go back and fix it, but to go below that would not be fair to the homeowners who came to the city for the permit. She stated she couldn't support anything that would be asking for anything lower than 18 feet.

Mayor Lunde called for a roll call vote.

6.1 THE MOTION FAILED ON A ROLL CALL VOTE AS FOLLOWS: YES – PARKS, M. MATA, B. MATA; NO – PHA, JACOBSON, GATES, LUNDE.

Mayor Lunde asked the City Attorney if the Council wanted to go back to the 18 feet, what the next steps would be.

City Attorney Thomson stated if the wishes of the Council were to approve the variance but only up to 18 feet, they should add that to the resolve clause that it shall be approved up to a height of 18 feet to allow a garage that was taller, etc. and just add the words up a maximum height of 18 feet.

6.1 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2018 APPROVING VARIANCE TO RESIDENTIAL GARAGE HEIGHT INCREASE ABOVE HOUSE HEIGHT AT 7209 IDAHO AVENUE NORTH NOT TO EXCEED A MAXIMUM HEIGHT OF 18 FEET.

Council Member Bob Mata stated the Council was asking to cut another 9 inches off the roof and it would not make a difference if they cut 9 inches off or cut two feet off. He stated they would just have to build new trusses for it. He stated the Council was still asking them to spend money and hopefully the builder would have to do it because he was the one that made the mistake. He felt by allowing it, the city ordinance meant nothing, and they could go ahead and do what they wanted and it didn't matter because the Council let them do whatever they wanted. He stated he would not support it because he was irritated that it went 9 inches more and took advantage of the 18 feet that they did get. He stated he wouldn't support it without it coming all the way down where it was supposed to be originally.

Council Member Mark Mata stated he wanted to be clear on the motion made by the Mayor. He stated the previous motion was going to entail taking the trusses off the roof and bring it back down to city ordinance but failed. He stated his motion was to remove 9 inches, which meant they had to take off the truss of the roof again. He stated either way they had to take off the roof but the issue was, was it going to be brought back to compliance to the code?

Mayor Lunde stated that 9 inches was the fault of builder and architect and the builder and architect owned that mistake. He stated that gave the home owner the right to go back to them and ask them to fix it.

Mayor Lunde called for a roll call vote.

6.1 THE MOTION FAILED ON A ROLL CALL VOTE AS FOLLOWS: YES – PHA, JACOBSON, LUNDE; NO – M. MATA, GATES, B. MATA, PARKS.

Mayor Lunde stated if the Council did nothing tonight that sometimes state law said if they did nothing, things would happen.

City Attorney Thomson stated if the Council did nothing, that by operational of law at some point in the future, the application would be deemed approved because it had to be acted upon within 60 or 120 days depending on the time frame.

He stated if there was no majority vote one way or the other on it, the last vote on the motion to approve the variance failed, if that was going to be the last vote of the Council, the Members of the Council who voted no should state on the record why they voted no. He stated that would be deemed the denial unless there was another motion someone wanted to make.

Council Member Pha stated there were two options, whether they did 18 feet or 18 feet, 9 inches or deny it because she voted yes to it and no to the other motion. She stated she would like to ask the Council Members who voted no if there was another scenario they were trying to get at that they didn't discuss and why they voted no because she was open to other suggestions.

Council Member Mark Mata stated there were three votes on one side to remove it down to code. He stated that no matter what, they had to remove the roof to get there. He stated there were six votes to remove it down to 9 inches and still had to remove the roof to get there. He stated that in both situations the roof was coming off, and it was a matter of, did the Council want to get down to what the code was in the first place where it should have been or not. He stated that was where he was at, that if they had to take the roof off anyway, put it back to code so the Council didn't have to have someone else come in front of the Council and say, it was done before and now the Council had set a precedent. He stated he would be willing to offer up funds for the city mistake of allowing the 18 feet in the first place to say if there was a deductible or something in there that was going to be burden by the homeowner, that the city would put it in there. He stated there were already funds they gave to people for doing the front of their house, yards, cleanup things, and they had programs for it. He thought there were five of the Council that said yes to tear roof off and redo it, and was asking for a fourth vote to say if they were going to have to tear the roof off anyway and to come into compliance.

Council Member Parks stated his no vote was for the same reason, that they had to take the roof off anyway and should get it back into compliance. He stated what was going to happen was that someone else would come forward with the same thing. He stated the Council had people that built things, like sheds and other things, had that discussion on the River Road and they came to the Council later and asked for a permit because they didn't know they needed a permit. He stated the roof was coming off anyway and should go back to where it supposed to be.

Council Member Gates stated he voted no on both motions because they should leave it. He stated the city said 18 feet, which was a mistake, and read why it was at 9 inches. He stated the Council made variances for fences for inches like the Mayor had said. He stated he voted no twice because he thought they should leave it and that was why he voted that way.

6.1 MOTION PHA, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-APPROVING VARIANCE TO RESIDENTIAL GARAGE HEIGHT INCREASE ABOVE HOUSE HEIGHT AT 7209 IDAHO AVENUE NORTH TO 18 FEET, 9 INCHES.

Mayor Lunde called for a roll call vote.

6.1 THE MOTION FAILED ON A ROLL CALL VOTE AS FOLLOWS: YES – GATES, PHA, LUNDE; NO – M. MATA, JACOBSON, B. MATA, PARKS.

Mayor Lunde asked the City Attorney since they were at a stalemate, was the last motion that did not pass, be the one that staff would present.

City Attorney Thomson stated that based on everything that was done, suggested tabling it and come back. He stated the effect of the last motion was to deny it, but they didn't have a resolution of denial in front of the Council. He stated there were four votes against approving the variance application and didn't need to direct staff, they would just do it. He stated if they tabled it, they would come back to the Council with a resolution for denial with findings they could act on.

#### 6.1 MOTION LUNDE, SECOND B. MATA TO TABLE ITEM 6.1.

Council Member Parks stated that if the Council had staff come back a denial, asked if there was an opportunity for them to go back to the homeowner and discuss what the issue was and if they could get it corrected.

Planning Director Sherman stated what they would do was reach out to the property owner and the builder and ask what the best solution was in their mind, knowing that they were not going to get a variance for the 18 feet 9 inches. She stated that was the message she got tonight and they had to figure out how to get the structure down to the height of the house.

#### 6.1 THE MOTION PASSED. (6 TO 1) GATES VOTED NO.

6.2 Planning Director Cindy Sherman briefed the Council on the Minnesota Muslim Community Center (Said Ibrahim) – Conditional Use Permit #18-123 for a Religious Institution at 8568 Edinburgh Centre Drive North.

#### 6.2 MOTION PHA, SECOND PARKS TO WAIVE THE READING AND ADOPT RESOLUTION #2018-167 APPROVING A CONDITIONAL USE PERMIT TO ALLOW A RELIGIOUS INSTITUTION AT 8568 EDINBURGH CENTRE DRIVE NORTH.

Council Member Mark Mata stated it was a permitted use but that was why it still came through the Council to make that decision whether they wanted that permitted use inside a retail space.

Planning Director Sherman stated the application was for a conditional use permit that was a requirement for all uses in the PCDD zoning district. She stated the city's zoning district had a couple of specialty districts like PCDD and Town Center that allowed all uses subject to the process. She stated when a building got built, it was not just specifically for retail uses, but it allowed the other uses that were allowed in that zoning category.

Council Member Mark Mata stated a normal retail would not need to come through a special process because it was already designed for the use in that area. He stated that building had a lot of vacancy space in it, and at first the city was told it was going to be similar to a Mathnasium where math was taught there. After that, the windows were all covered, no one could see inside, there were no signs, and cars were there until midnight. He stated at that point it drew awareness to the city and it should ask more questions and it now had different intended use than what was originally proposed to be there. He stated he was not a fan of strip malls, changing what would be a retail area use and having a different type of use. He stated he would not be supporting it for that purpose.

Mayor Lunde stated he supported the motion knowing it was a special district. He asked what control they had if someone wanted to expand it to two more stalls or buy the building and it went off the tax rolls. He stated it was not what the district was planned for and was meant for retail to specifically drive retail. He asked if there was a moment where they could say no and didn't want it to come off the tax rolls.

Planning Director Sherman stated any expansion of the facility would require further action. She stated what they applied for was just the space. She stated there were federal regulations about religious institutions and had to be careful when they didn't allow them and when they did allow them. She stated they had a moratorium on religious institutions a few years ago to allow them to amend their purpose statement in the business park district and the town center district to be a taxed based generating district in order to be able to not allow religious institutions that didn't pay taxes in those areas protecting the TH610 corridor because they had some large facilities looking to build tax exempt properties along there. She stated they could talk to the City Attorney about doing similar language in the PCDD.

City Attorney Thomson stated if the application was triggering an issue that was a concern of the Council that the particular district and the other change they made, that it wasn't just based on religious institutions, it was based on that they wanted any use in there to be property taxed, whether it was a school and not solely a religious institution. He stated if they Council wanted them to look into it, he suggested the Council to direct staff to look into it and come back to the Council at a future time. He stated right now, that particular use was an allowable use in that district subject to a conditional use permit. He stated if it was a concern they should have staff look at it and come back to the Council.

Mayor Lunde stated the Council would at least like to have that discussion and was worthy of looking at what the intent of that area was to be. He stated there had been more restaurants in there in the last five years.

6.2 THE MOTION PASSED. (6 TO 1) M. MATA VOTED NO.

6.3 Planning Director Cindy Sherman briefed the Council on the Conditional Use Permit for a Wendy's Restaurant with a Drive-Thru at 5931 94th Avenue North.

6.3 MOTION JACOBSON, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-168 APPROVING A CONDITIONAL USE PERMIT FOR A CLASS-I RESTAURANT WITH A DRIVE-THRU AT 5931 94TH AVENUE NORTH. MOTION PASSED UNANIMOUSLY.

6.4 Planning Director Cindy Sherman briefed the Council on the 10214 Regent Avenue North/Rush Creek Regional Trail Access Potential Sale of Park Land.

6.4 MOTION B. MATA, SECOND PARKS TO DIRECT STAFF TO PURSUE A REPLAT AND LAND SALE OF A PORTION OF THE RUSH CREEK REGIONAL TRAIL ACCESS. MOTION PASSED UNANIMOUSLY.

6.5 Cindy Sherman, Planning Director, Jeff Holstein, Transportation Engineer and Doug Arnold, Kimley-Horn briefed the Council on the North Park Business Center Alternative Urban Area-Wide Review (AUAR) Update.

The following individuals addressed the Council:

1. Jeff Shuman, 7403 103<sup>rd</sup> Avenue. Asked if traffic studies mattered and why did traffic studies matter especially when considering what they were representing. He asked if they were just numbers or thinking of the people impacted when something was done wrong. He stated traffic studies were done because they wanted to make sure they were protecting the community, protecting the roads, residents understanding when a road system was overwhelmed, that very real consequences could happen. He stated when he thought of the proposed project and the scale of it, the scale alone should have drawn a different set of eyes on the consideration of the traffic impact, let alone the unknown of the impacts of something that size. He stated the thought of it casting a shadow over numerous communities, neighborhoods and homeowners and not just businesses and roads should have drawn a separate level of attention. He asked what happened when a traffic study failed, when it was not taken seriously and spilled over and the consequences. He stated the city of Champlin conducted an independent study and was not aware the city did one and didn't understand when they did their study, they saw numbers significantly different to the ones in the proposal and not asking questions about making a bad decision and thinking about the serious impact that could happen.
2. Michael Kisch, 7413 Oxbow Creek. Stated at the Planning Commission meeting on September 26 there were some questions on the AUAR and the analysis. He stated he looked at the October AUAR and some of those questions were still not clarified. He stated a lot of questions were around the general inconsistencies of data compared from 2013 to 2018 and how the math for 2013 was done with a separate data point than in 2018. He stated the formula was different for the two when looking at the land use code designation for each different component. He stated in 2013, the traffic counts as noted in the new AUAR were based on a land use code 134 Industrial Park, and in the 2018 AUAR update, did decrease from .87 to .40 per thousand square feet. He stated what was not noted as it looked at the overall traffic reduction was that when in the traffic count, the fulfillment center had an ITLUC that was not noted in the general summary. He stated that in the basic AUAR, they didn't know if that data was from a land use code 130, but until digging further, it was land use code 155, which was a high bay warehouse, which was a significantly reduced traffic generation number. He stated that data was not clear and consistent in terms of what was being compared in terms of reduction.

He stated that to bring everything and aggregate it to the same baseline for comparison, was to take the ratio for 2013 and update it with the new 2018 numbers, the actual 2013 AUAR with the 10th addition data generated, 14,991 daily trips as opposed to the 2013 8th addition data of 25,388. He stated that just changing the formula and having it comparable showed that reduction. He stated it was 14,991 when comparing it against a new proposed AUAR in 2018 data was a baseline for saying, did the new proposal actually reduce traffic from the previous scenario. He stated there were other inconsistencies in the summary table that was referenced. The land use type itself for scenario 2018C with housing asked why that was in there if it was not something on the table for consideration. He stated changing a 15-inch sanitary to 12-inch sanitary line impacted the city's future capacity from an infrastructure standpoint. He asked why the little changes were made and buried in there. He stated there were a lot of details in there that meant a lot to the sustainability and longevity of the city.

Council Member Bob Mata stated the AUAR went down an old country road and could not vote for any development going in that area without the expansion of Winnetka Avenue. He stated it needed to be four lanes, have turn lanes and have stops lights. He stated it couldn't handle the current traffic now without any development even if they put a small building in there. He stated that before they went to construction, they needed to be proactive. He stated it was a county road and needed to get Hennepin County involved and get that road widened and get it prepared before construction started. He stated if they waited until after, it was too late and construction would make it a bigger problem.

Planning Director Sherman stated the environmental review process was to set the stage for development. It was not approving anything to move forward. She stated that in order for any development to happen it had to come back to the Planning Commission and Council. She stated the first two buildings that had been built there, they went through a site plan review process and they approved installing an extension of Oxbow Creek Drive and a portion of Xylon Avenue. She stated those were the pieces required to allow that level of development. She stated the environmental review was intended to identify those other mitigations that were required to allow some portions or all development to happen. She stated that going back to the original 2013 AUAR, it talked about a threshold where at some point the Highway 169 and 101<sup>st</sup> Avenue interchange would be required for full build out. She stated they were still going through that same process. She stated it did not give anyone rights to build as shown on any of those scenarios without coming back and going through site plan review, conditional use permit, and platting of the land. She stated when they got those applications in, they weighed them against the environmental review to be sure it was within those parameters.

Council Member Jacobson stated she was interested in hearing about the formula not being the same, and the traffic numbers they were getting for 2013 and 2018 were based on a different formula.

Planning Director Sherman stated Kimley Horn completed the study and they had full vetting of it. She stated the Traffic Transportation Engineer and City Engineer both reviewed it. She stated they went through them and reviewed them based on their concerns and their needs.

City Engineer Jeff Holstein stated the question on the rates was correct. He stated if they applied version 10 of the IT Trip Generation manual instead of version 8, that would lower rates from 2013. He stated the point was, there was a set of mitigations, do the traffic impact study to determine what the mitigation should be, what roadway improvements should be done, what traffic signals should be installed and what type of TDM measure should be implemented. He stated there was a set of mitigations that came out of the earlier study and they looked independently at the new traffic numbers of version 10 and they came up with a different set of mitigations and were very similar. He stated one of the key components was the new interchange, Highway 169 and 101<sup>st</sup> Avenue and the connection of Xylon down to that interchange. He stated the majority of traffic was expected to go to and from the south and the city was in the northwest corner of the metro and most of the traffic wanted to go south of Highway 169 or Winnetka and continued to Highway 169 where they wanted to get on TH610 and disperse east or west. He stated 70 to 75 percent of the traffic wanted to go south and the mitigations were very similar, except an interchange and connection of Xylon down to the interchange.

Council Member Parks stated he got emails, phone calls and talked to a resident tonight, who stated there were rumors on the project and that the Council was secretly voting on it tonight.

Planning Director Sherman stated the action tonight was to approve the environmental review and only set the stage for future development to happen. She stated the ordinances required that every application, with a few exceptions, to go to the Planning Commission and Council. She stated it didn't get changed by adopting an environmental review. She stated she heard similar rumors about the comprehensive plan that somehow the action they took on the comprehensive plan was suddenly going to grant that property different rights than they had today and that was false. She stated the property was subject to zoning and land use that was in place today. She stated the land use they were proposing didn't change anything. She stated it was subject to the development plan approval that was in place and part of the action that had been requested was to modify, it but that still had to come back to the Council no matter what happened. She stated there was nothing going on under the table and it was a timeliness issue. She stated that environmental review had a timeline and they had requirements to meet for deadlines and publications and taking action within a certain time period of the comment period closing. She stated that was what they were trying to follow as they indicated to the email that went out talking about tabling the project that was under consideration when they had a schedule. She stated they were going to email that schedule to everyone they had an email address for.

City Attorney Thomson stated the AUAR process was different than what they typically saw. He stated it was a substitute for either and kind of a crossover between an environmental impact statement and environmental assessment worksheet, but the purpose of those environmental reviews, and the one tonight, required cities to consider the environmental impact of a project before Council acted on it. He stated the Council couldn't vote on any application on that land until after they took action tonight. He stated it was a condition preceding to even voting on a development application because what they were seeing tonight was to consider the environmental impacts, approving the study and they would be considering them if and when they had a vote on an application. He stated they couldn't be voting on an application tonight and couldn't do it until after taking action on the environmental component of it.

Council Member Mark Mata asked about the amphitheater in 2005. He stated there was discussion of the Environmental review process and impacts and was one of the reasons why the project did not come through besides a lot of concerned residents. He asked if they recalled anything on it and what was different from that from what the Council was doing now.

City Attorney Thomson stated it was an environmental review and believed it was the impact statement, which was the highest level of environmental review. He stated the process was followed, was approved, and environmental impact statement was approved. When the application came to the Council, it was approved, but the environmental considerations were taken into effect before they made the decision to act on the amphitheater and it never went forward. He stated it was the exact same process being followed now except it was an AUAR instead of EIS. He stated the Council was taking the environmental step tonight. If and when any development application came back, the Council would consider the environmental impact when they acted on that application, which was the exact same process followed with the amphitheater process.

Council Member Mark Mata stated when he looked at the Winnetka and Oxbow Creek Drive intersection, it was no different than Noble Parkway and Edinbrook Parkway. He stated it was a three way, had residential on one side and people trying to get to Noble Parkway. He stated they had to put a stop light there because there were a lot of complaints from the residents and the County had no plans to put a stop light there. He stated the light on 114<sup>th</sup> Avenue, cared less about it because it was in Champlin and didn't do anything for the Brooklyn Park residents. He stated it was mentioned that traffic was going to come out of that development and go south. He stated that a lot would go east and if the traffic went south and a lot went east on TH 610, it would not go anywhere, which meant the traffic would cut through neighborhoods. He stated Highway 252 was terrible and had cut through traffic on Humboldt, West River Road, Xerxes, Logan and Brookdale Drive. He stated they had signs that didn't want them to turn into the neighborhoods.

He stated if they were going to build there, they had to over build the road system. He stated it would pass tonight because it was a document that said to move forward to the next step and they were not denying anything. He stated the Council would deal with the building when they came because tonight's action wasn't stopping that process, but it clearly talked about traffic all over it and it was terrible. He stated they were making concessions on a bridge on 101<sup>st</sup> Avenue because it was still going to be undersized and it should be a clover leaf in all four directions and be massive. He stated he didn't know if it was the place to say no tonight or just before another development came in front of the Council. He stated that until he saw the roads up to where they could drive on them, he wouldn't approve any development to come forward and was the first one to say he wanted big buildings because he wanted the tax base. He stated he wanted offices because that was people and they would come for sit down restaurants that were needed and have traffic to move those people.

City Engineer Holstein stated he had completed and prepared reviews for well over 100 traffic impact studies and several had been very large. He stated he had worked on the Mall of America traffic impact study, Riverdale shopping center, National Sports Center in Blaine, the Fargo Dome, Performing Arts Center, Target North Campus and several others in the city, including the North Park traffic impact study. He stated there was a process to be followed preparing a traffic impact study. He stated he had reviewed the traffic impact study and all elements were there. He stated there was a process for designing roadways. He stated they develop some forecast then look at the level of roadway, the level of traffic needed to accommodate that forecast and that was done. He stated everything was done that should have been done and the mitigation in the report was reasonable. He stated it would adequately accommodate the level of traffic to and from the development and the long range of the rest of the city being built out and general traffic in that area up to 2040.

Council Member Mark Mata stated he was allowed to say no and the reality was to watch the back up traffic and he saw it. He stated it was human nature for people to cut through and find the shortest way and didn't think that model took that into consideration or didn't take in the volumes; otherwise, they would not have those problems in different areas of the city where people were taking the cut through roads to get somewhere quicker.

Council Member Pha asked if there was any modification that could be built on that lot with the adoption, what they currently had now to the new one.

Planning Director Sherman stated the zoning in the land use remained the same. She stated the

analysis was looking at a bigger building, but that didn't guarantee approval of a bigger building.

She stated it was being analyzed and the developer still had to complete the process for the development application that was underway. She stated it didn't give them any rights to anything different than they had today. She stated it was updating the analysis for traffic and for the other environmental impacts.

Council Member Pha wanted to clarify and make sure that was the case because what she didn't want to do was to approve it and make it seem that she would be in favor of approving that the Council was agreeing to an approval of a fulfillment center or something like a Hotdish. She stated it was merely an update environmental review and a scenario based on a possible fulfillment center for that size and what kind of impacts it would have, but not saying they would be accepting and approving it.

Planning Director Sherman stated that she was correct and one of the scenarios that was analyzed in 2013 included a large user in the middle and then the development plan changed and were smaller buildings. She stated there was still the development review process, the site plan review process and all those other things that for any building would have to come back to the Council whether a large user or small user, and it didn't require Council to approve any of them that were inconsistent with the development plan.

#### 6.5 MOTION LUNDE, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-169 APPROVING THE NORTH PARK BUSINESS CENTER ALTERNATIVE URBAN AREA-WIDE REVIEW (AUAR) UPDATE.

Mayor Lunde stated Highway 252 was funded to get done and they talked about getting rid of lights and about the traffic jam. He stated the County would never do the road unless there was development. He stated he talked to the County Commissioner and they were interested in what they could do to do it, and interested in working with the city, but the city did not have anything before the Council right now. He stated they only had an environmental review, which didn't have a project attached to it. He stated the County was interested, and as of right now, there was no reason to do anything on Winnetka and knew the traffic was horrible, but there was nothing the County would do because under their rules, the road was adequate for the existing traffic. He stated that until anything was approaching approvals, or anything like that, the County would say thanks, but no thanks, until they saw things going forward.

He stated people wanted it to be green, to leave it as pumpkin field and corn patch but it would get developed and had been in the plans for a long time. He stated the action tonight just laid out the parameters of what the Council was looking at. He stated what they approved had talked about mitigation, whether it was a small or big building, they would have to address the mitigation at every step to make sure they were crossing a threshold that was required. He stated the city and state would be investing \$32 million on 101<sup>st</sup> Avenue and did think that something would go in there and would drive traffic. He stated he wanted it to develop and tonight was the next step and set the ground work for other things. He stated if the project came back, they would have a spirited discussion, but it might not come back because people took developments elsewhere and things changed. He stated what was before the Council tonight was just part of that process going forward. He stated that process also helped the city lobby for money when it had traffic counts, environmental studies, and things to go and talk about the traffic that it expected and helped when talking with legislators about bonding for money.

Mayor Lunde called for a roll call vote.

6.5 THE MOTION PASSED ON A ROLL CALL VOTE AS FOLLOWS: YES – GATES, B. MATA, PARKS, PHA, JACOBSON, LUNDE; NO – M. MATA.

7.1 Mayor Jeffrey Lunde briefed the Council on the appointments to Commissions.

7.1 MOTION LUNDE, SECOND JACOBSON TO APPOINT TRELAWNY GRANT TO THE COMMUNITY LONG-RANGE IMPROVEMENT COMMISSION REPRESENTING THE CITY AT-LARGE EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2019. MOTION PASSED UNANIMOUSLY.

7.1 MOTION LUNDE, SECOND PARKS TO APPOINT LAURA SELL TO THE COMMUNITY LONG-RANGE IMPROVEMENT COMMISSION REPRESENTING THE CENTRAL DISTRICT EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2021. MOTION PASSED UNANIMOUSLY.

7.1 MOTION LUNDE, SECOND M. MATA TO APPOINT DEBORAH LEWIS TO THE HUMAN RIGHTS COMMISSION REPRESENTING THE CENTRAL DISTRICT EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2021. MOTION PASSED UNANIMOUSLY.

9A COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS – None.

9B CITY MANAGER REPORTS AND ANNOUNCEMENTS

City Manager Stroebel stated there was an opportunity for the community tomorrow evening on a presentation and discussion about universal design living in a home fit for you in the Council Chambers at 6 p.m. On Thursday, November 29, there was an open house on the Highway 169 and 101st Avenue interchange in Council Chambers from 5 to 6:30 p.m. On Saturday and Sunday, December 1 and 2, at Ediem Farm there was going to be a Norwegian Christmas, from 1 to 4 p. m. each day. He stated that CEAP was having a toy drive, December 1 through December 14 and could bring in unwrapped toys to City Hall and the Community Activity Center. He thanked Council Member Pha for the invitation and opportunity to participate in the Hmong New Year celebration event.

ADJOURNMENT – With consensus of the Council, Mayor Lunde adjourned the meeting at 9:52 p.m.

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JEFFREY JONEAL LUNDE, MAYOR

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DEVIN MONTERO, CITY CLERK

## REGULAR BROOKLYN PARK CITY COUNCIL MEETING

Monday, December 10, 2018  
7:00 p.m.

Brooklyn Park Council Chambers  
5200 85th Avenue North

CALL TO ORDER – Mayor Jeffrey Lunde

PRESENT: Mayor Jeffrey Lunde; Council Members Rich Gates, Susan Pha, Terry Parks, Mark Mata, Bob Mata and Lisa Jacobson; City Manager Jay Stroebel; City Attorney Jim Thomson; Community Development Director Kim Berggren; Finance Director LaTonia Green; Police Chief Craig Enevoldsen and City Clerk Devin Montero.

ABSENT: None.

Mayor Lunde opened the meeting with the Pledge of Allegiance.

2A RESPONSE TO PRIOR PUBLIC COMMENT – None.

2B PUBLIC COMMENT

1. Collette Guyott-Hempel, 9277 Trinity Gardens. Stated her house backed up to 93<sup>rd</sup>/Regent on the southwest corner that was promised when 610 went in to have curb and gutter and done in a year and half and to date there was no curb and gutter, and sidewalks. She stated that the speed limit was down to 50 mph, however, there were pedestrians walking to Hy-Vee that worked there and other pedestrians trying to be safe. She stated there were spots where there were no shoulders to walk safely. Trucks were engine breaking but couldn't get a sign for them not to do it because it was not a County road and had been a city road for 20 years. She stated they had noise issues with cars squealing their wheels. She thanked Council Member Bob Mata for his efforts to get the State to reduce the speed this fall, but had not put 93<sup>rd</sup> Avenue in the budget and was a state funded roadway. She asked to get that stretch of roadway curbed and guttered from Regent to Noble with sidewalks included on both sides and with reduced speeds of 30 mph. She stated that a pedestrian hit at 30 mph had 50% survival rate, at 50 mph had 15% survival rate, and going 60 mph the surviving rate was zero.

3A. MOTION GATES, SECOND PARKS TO APPROVE THE AGENDA AS SUBMITTED BY THE CITY CLERK. MOTION PASSED UNANIMOUSLY.

3B PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS

3B1 Resolution and Presentation of Plaques to Council Members Rich Gates and Bob Mata in recognition of their service to the City of Brooklyn Park.

The Mayor and Council Members recognized Council Members Rich Gates and Bob Mata for their service to the city of Brooklyn Park.

3B1 MOTION LUNDE, SECOND JACOBSON TO READ AND ADOPT RESOLUTION #2018-175 IN RECOGNITION OF SERVICE TO THE CITY OF BROOKLYN PARK BY COUNCIL MEMBER RICH GATES. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LUNDE, SECOND GATES TO READ AND ADOPT RESOLUTION #2018-176 IN RECOGNITION OF SERVICE TO THE CITY OF BROOKLYN PARK BY COUNCIL MEMBER BOB MATA. MOTION PASSED UNANIMOUSLY.

3B2 Fire Chief John Cunningham briefed the Council on the contributions to the city of Brooklyn Park.

3B2 MOTION JACOBSON, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-177 ACKNOWLEDGING CONTRIBUTIONS TO THE CITY OF BROOKLYN PARK OF \$500 FROM THE OSSEO LIONS CLUB, \$2,000 FROM THE EDINBURGH FOUNDATION, \$300 FROM THE MINNEAPOLIS MARRIOTT NORTHWEST, \$75 FROM JEAN SCHMIDT, AND \$195 FROM AMETEK. MOTION PASSED UNANIMOUSLY.

3B3 Brooklyn Park Development Corporation Board of Directors Interviews.

The Mayor and Council Members interviewed applicants to fill a vacancy on the Brooklyn Park Development Corporation Board of Directors.

4.0 MOTION GATES, SECOND PARKS TO APPROVE THE FOLLOWING ADMINISTRATIVE CONSENT ITEMS:

4.1 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-178 ESTABLISHING FUND BALANCE COMMITMENTS IN ACCORDANCE WITH THE CITY'S FUND BALANCE POLICY FOR THE YEAR ENDED DECEMBER 31, 2018.

4.2 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-179 TO AMEND THE 2018 GENERAL FUND TO BE DECREASED BY \$75,000 AND THE 2018 DONATION FUND BUDGET BE INCREASED BY \$75,000.

4.3 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-180 TO APPROVE AND EXECUTE AN ENVIRONMENTAL HEALTH SERVICES AGREEMENT BETWEEN THE CITY OF CRYSTAL AND THE CITY OF BROOKLYN PARK.

4.4 TO SET A PUBLIC HEARING ON JANUARY 7, 2019, TO SOLICIT TESTIMONY AND CONSIDER ISSUANCE OF AN INTOXICATING LIQUOR LICENSE FOR RUELAS WBL LLC DBA EL RANCHO MEXICAN RESTAURANTE, LOCATED AT 1408 85TH AVENUE NORTH.

4.5 TO WAIVE THE READING AND ADOPT RESOLUTION #2018-181 TO AUTHORIZE PAYMENT TO DAVE PERKINS CONTRACTING INC. FOR EMERGENCY WATER MAIN REPAIRS.

MOTION PASSED UNANIMOUSLY.

6.1 Comprehensive Plan – Direct Staff to Submit the Plan to the Metropolitan Council as required by state law.

Planning Director Cindy Sherman briefed on Background, Met Council Vision, Systems Statements Issued, Brooklyn Park 2040 Update, Outreach and Public Meetings.

Ryan Krzoz, WSB, briefed the Council on the BP 2040 Comprehensive Plan, Overview, Table of Contents, Future Land Uses, Future Land Use Districts, Development Staging, Housing, Transportation, Economic Development, Implementation, Adjacent Review Comments, 2040 Comprehensive Plan Comments Received, Next Steps, and Process.

The following individuals addressed the Council:

1. Nancy Balzer, 7730 Oxbow Creek Circle. Asked about the land use change in the northwest corner of the city around the Hotdish site. Asked about the land use change from business park to employment center if it was a name change only or if there were actual differences in what could go in a business park versus what could go in an employment center. She asked what the purpose was for making the change because the employment center definition seemed wide open.
2. Jeff Giesinger, 7701 Oxbow Creek Circle. Asked for a clarification on the name change from business park to employment center and if there was more to it and if it was going to change what was allowed and not allowed there. Was excited for more development in there and looked forward to more businesses there but wanted to be part of the process.
3. Michael Kisch, 7413 Oxbow Creek Circle. Stated as they were looking at the employment center district itself and trying to understand the intent of the actual language and symantecs within it and changes from warehouse and distribution as a secondary use or not a primary use, suggested removing that clause of it because it was not only in northwest area but everywhere the actual land use designation applied on the land use map. Was out of alignment with tools they had and was unclear about the shift on the scale on intensity of review of elements.
4. Collette Guyott-Hempel, 9722 Trinity Gardens. Concerned about affordable housing and apartments. Stated currently both 610 Apartments and the Lions project were being built as studios and one bedrooms and at market value. She stated all apartments went to certain schools and Woodland School had zero apartments assigned. She stated the Comprehensive Plan needed to be looked at and the fact that segregation in the schools in the city was a big problem in the Osseo School District. She stated there was a lawsuit going forward in the seven metro counties regarding segregation of schools. She stated she didn't want to see any more being sent to Edinbrook School because it was at capacity and had an impact on number of volunteers that could go into a school. She stated the affordable housing should be at minimum two to three bedrooms and the SNAP report over a decade ago said that no apartment in the city should be built less than two bedrooms. She stated the 610 Apartments and a new group had studios and was a negative impact as far as providing enough housing space for families. She stated they should have enough room if someone decided to be a foster parent that there was adequate spacing in those apartments and truly reflect affordable family housing.

Council Member Jacobson stated she was happy to see all the feedback that was received was taken into consideration and addressed from Hennepin County, the residents, Commissioners, adjacent cities, such as Fridley, Champlin, Coon Rapids, and organizations like ACER, Housing Justice Center, MnDOT, and Three Rivers. She stated she heard from various people she had met with who had concerns too and all were addressed.

She stated that Planning Director Sherman said something in the presentation because the Council was getting a lot of questions tying the change in the Comprehensive Plan to Hotdish. She asked if the two things were tied together in any way whatsoever.

Planning Director Sherman stated they were not except for the effect on the land use, but unrelated.

6.1 MOTION JACOBSON, SECOND PARKS TO WAIVE THE READING AND ADOPT A RESOLUTION APPROVING THE 2040 COMPREHENSIVE PLAN FOR SUBMISSION TO THE METROPOLITAN COUNCIL.

Council Member Mark Mata stated that Planning Director Sherman read from Page 316, referring to Mr. Kisch's comments. He stated he would like to hand the book to him to read it to make sure the comments in there stressed his concerns, otherwise, a nod from him saying it did address his concerns would suffice.

Mr. Michael Kisch nodded his head.

Council Member Mark Mata stated he would take it as a yes and thanked Mr. Kisch. He asked if the plan had an increase in higher density numbers such as the last Comprehensive Plan he had seen that came through the city and had always been asking Brooklyn Park to put in more high density units, yet the neighboring cities never had to meet those requests.

He stated the Met Council was notorious for making the city do things and held sewers and other infrastructure type things over the city's head where the city ended up putting the required units in, yet Maple Grove didn't follow the same practice. He asked if in the document it showed they were adding more higher density units.

Planning Director Sherman stated the plan itself addressed density in different ways. She stated they were not adding additional units. What they had done was change land uses so that units could be put in different places, for instance, the area northwest of the city, they changed the area. It used to be medium density and high density and that was all business park. She stated they made it all mixed use now. She stated they could have a mixture of uses, could be some residential and some other kinds of uses with the intent of more job creation and not just housing. She stated the other thing they did in those mixed use areas was that it had to be at least 30% housing. She stated that would be a change where they would allow more housing, but in the case of the northwest corner of the city, it was all medium and high density before. What they were required under the housing policy from the Met Council was to add a certain number of affordable units and that was 507 units. She stated they had done the analysis throughout the metro area, and they had mandatory requirements for each community. She stated she didn't know what the Maple Grove requirement was but they would be required to show how they could accommodate that in their plans like Brooklyn Park and every other city in the metropolitan had to do.

Council Member Mark Mata stated that on the Figure 3 map, where Highway 169 was at that quadrant of city in the northwest, stated it had on the right hand side of Highway 169 in pink, but believe it was Business Park, yet the area north of TH610 in that map was purple on both sides east/west and on the west side of Highway 169, it was also purple. He stated he knew that area to be an industrial corridor going all the way up and asked if they were changing from it.

Planning Director Sherman presented Map 3-3 and stated it was the existing land use map, and on Map 3-6, what they were proposing was to still have mixed use at the intersection of Highway 169/610 and that was no change in the land use. She stated they tweaked the

language a little bit, but the uses were basically still the same and modified the area (on the map) from high density medium density housing to mixed use and that area (on the map) was all Business Park previously. She stated with the business park area, they had to fill in and thought it would be better to make it mixed use to allow other opportunities for development, which was the North Park Business Center and was on their current 2030 plan as business park. She stated it was now proposed to be employment center with the intention being the same kind of development.

Council Member Mark Mata asked why they wouldn't create a different kind of zoning to buffer from the residential area to go into development.

Planning Director Sherman stated the philosophy of city had long been that major roadways created that buffer. She stated that area, while it was being called something different, the intention wasn't being changed. She stated Winnetka Avenue had always been deemed as a transition to residential. She stated they had done that at other locations, such as, Brooklyn Boulevard, had business park on the south side and residential on the north side of Brooklyn Boulevard. She stated 93<sup>rd</sup> Avenue as the best example, where the entire corridor on the south side was residential and on the north side was business park all along 93<sup>rd</sup> from the city border to Zane Avenue. She stated they had used the major roadways as transitions, which was very common in planning circles between residential uses and nonresidential uses.

Council Member Mark Mata stated when TH610 came through the area of Regent/Zane, the conversation was to build something to buffer from the housing development closer to Noble Parkway because they had a group of townhomes built at that corner of Noble Parkway and 93<sup>rd</sup> Avenue. He stated if he was in a house, he would like something buffering him between a larger development, and gave an example of a strip mall and then behind a two story office warehouse building and behind that might be something taller, a four story building. He stated they had those buffers and when coming out in their yard wouldn't see them. He stated he didn't believe West Broadway was a good buffer because it was a residential road, one lane each way with a few right ins/right outs on it. He stated it might have been a larger road in the past but it was not. He stated that looking at the other maps, would be looking at some of the larger tax base and now felt they were not creating a buffer by what could be built in there. He stated that on the blue area of the map, thought they needed to put in that area business development on both sides of Highway 169 and not purple on the one side, which meant putting housing over there. He stated if it ended up building housing on that side that was awesome for the Maple Grove residents because they would get housing to housing but Brooklyn Park residents would get housing with what could be some very large structures. He thought the plan should have purple on outsides and blue on the insides where the commercial building got built up against Highway 169 which was a great freeway and a buffer for housing which got built next to housing.

Planning Director Sherman stated that was why they had an existing development plan and existing zoning in place and doing a comprehensive plan update, didn't think they would start changing land uses when they already had an approved plan in place. She stated that in that case where he was talking about, having an approved development plan for all business park developments in that area, she was not sure they could flip the land use to not be consistent with that approved plan.

City Attorney Thomson stated he would have to look at it and how much detail was built. He stated some of those development plans had been partially built out and there would be some

issues with making uses nonconforming. He stated it would be a very complicated issue to go through.

Council Member Pha asked about the 2030 plan land use slide. She stated according to the page regarding the business park with the comprehensive plan of 2040, the change in the land use from business park to an employment center, asked if that would then allow that piece of land there to have warehousing distribution centers.

Planning Director Sherman stated the zoning in place today restricted that from the ordinance that was adopted as part of the planned development plan overlay and that was not proposed to change. She stated if Hotdish came back and proposed modifications, they would consider it at that time, but it didn't apply or was not impacted by that language change.

Council Member Pha asked with the proposal tonight, would it now fit because of the land use.

Planning Director Sherman stated that in her estimation, it fit today what they were proposing for the land use today. She stated Hotdish was permitted under the existing language and would also be permitted under the proposed language subject to those other approvals that were already in place, the development plan and zoning that were already in place.

Council Member Pha stated that aside from the zoning, another consideration was land use and the current business park under land use said, "warehousing distribution activities that are accessory to principle use." She stated that meant it couldn't be their primary use and it would be an accessory use that would allow warehousing distribution activities. She stated with the proposed added language, it seemed to her it would move from accessory use to allowing it to be a primary use.

Planning Director Sherman stated that was language on land use, and on top of that it layered the zoning and was talking about currently there was an overlay on the site that restricted the zoning.

Council Member Pha stated it did change a little bit and she interpreted it as before it would be an accessory to a primary use, and now with the change, it would actually mean land use and that it would be allowed as primary use.

Planning Director Sherman stated she was correct and was an interpretation issue the Council would make the ultimate decision on. She stated that the existing language said, "other uses as permitted in the businesses park zoning district that may be allowed when approved by the Council as part of the Master Plan." She stated the zoning district that was in place allowed warehousing and distribution. She stated when she read it, I said if the Council by Master Plan approved those other uses, then it was okay. She stated that in the case of North Park there was language in their ordinance that restricted distribution, and the debate became was it distribution or was it not. She stated that was something the Council would have to decide when the project came back before the Council.

Council Member Pha stated that unrelated to Hotdish, didn't believe warehouse or distribution center belonged in that location and a good land use. She stated it was a great piece of land in the city they could have for great uses. She stated it was a waste to put in warehousing or

distribution center as primary use there. She stated she could not see that she would be in favor of changing the land use to allow that as primary use versus before it was accessory use to another primary use.

6. MOTION PHA, SECOND MATA TO AMEND THE MOTION TO REMOVE THE FOLLOWING LANGUAGE IN THE 2040 COMPREHENSIVE PLAN REGARDING THE LAND USE THAT IS HIGHLIGHTED IN YELLOW AS FOLLOWS: "WAREHOUSING AND DISTRIBUTION AS PART OF A MASTER PLAN FOR USES; AND FOR THE SKILL AND INTENSITY, TO REMOVE "WITH AN INCREASED FOCUS ON JOB CREATION WAREHOUSING DISTRIBUTION CENTERS WILL BE PERMITTED IF APPROVED BY THE CITY AS PART OF A MASTER PLAN."

City Attorney Thomson stated the action item before the Council tonight was not to approve the comprehensive plan. He stated it was just to forward it to the Metropolitan Council for their review. He stated any changes would have to happen when it came back to the Council.

Planning Director Sherman stated they were asking the Council to approve it for submission to the Metropolitan Council and approving as it was. She stated that any suggested changes from the Metropolitan Council, they would bring it back as a final implementation action by the Council.

Council Member Bob Mata stated that all it did was open the door to allow a distribution center in there where before it had to come through the city and get approval. He stated if Federal Express came back and wanted to put it in with that warehousing and distribution center part of the Master Plan, the Council couldn't say no.

Planning Director Sherman stated they could still say no because of the other tools that were in place.

Council Member Bob Mata stated he didn't like opening the door and thought that was what they were doing here. He stated he didn't know why they needed to change it from business park and asked why they needed to change the name to employment center. He asked what more did that offer than business park other than allowing a warehouse distribution center without it being an accessory to their principal use.

City Attorney Thomson stated that on the Flow Chart of Future Events, under the chart, it was consistent with the statutes. He stated it would be coming back to the Council for final plan adoption regardless of whether the Metropolitan Council made any comments. He stated the resolution tonight, and he knew the captions said approving the 2040 comprehensive plan, but the actual text of the resolution said that the city of Brooklyn Park be submitted to Metropolitan Council for their review and determination. He thought it was the model resolution the Metropolitan Council proposed.

Planning Director Sherman stated they wrote the resolution and if the Council took action tonight, it was their direction that they approved the plan. She stated it still had a process that it had to go through and they anticipated there would be modifications recommended by the Metropolitan Council, in which case, they would have to make those changes and come back. She thought it was semantics as to how they were looking at it.

City Attorney Thomson stated the problem was it changed the vote requirements. He stated if it was approval, it needed two thirds vote. If it was just a submittal, it didn't need two thirds vote. He stated his understanding of the statute was that it was going to come back to the Council for final adoption. He stated at that time it would clearly need two thirds vote to get adopted. He stated the resolution tonight only required a majority vote the way it was worded. He stated they could still see if the motion passed, but the final vote on it was just a majority vote tonight because they were not adopting the plan.

Planning Director Sherman stated she would rather have the plan in a state the Council appreciated, liked and supported. She stated they would be happy to make the modifications to the language around the business park because their intention was not to make it different. She stated it was just modernizing the language, cleaning it up and being more descriptive. She stated Business Park did tell them much, but Employment Center said the goal of the city was to create jobs, which had been a focus of the city since 2012. She stated they would happy to make the modifications to the language as suggested by Council Member Pha. She stated she would rather go that direction knowing it was going to come back but to get a good vote and supportive vote on the plan.

Mayor Lunde stated it would still come back to next year's Council if it came back for some level of approval in January. He asked about the process with the Met Council response time, if their changes took a few months. He stated Project Hotdish could come back and it would be under the existing rules.

Planning Director Sherman stated a good example was when they did their planning process for the 2030 comprehensive plan. She stated that work was done in 2008 and by the time they submitted it and went back and forth, it didn't get approved until 2011. She stated that was an outlier, because they had a couple of big issues. In tonight's case, they did a preliminary review with Met Council and gave a very complete response. She stated they made the modifications based on that. She stated the process was that they submit it by the end of the year with any modifications the Council made tonight. They had 15 days to determine if it was complete or not. If they determined it was complete, then 120 days kicked in, they had to review it and make comment back to the Council. She stated it could be another year before they actually implemented the plan or could be six to seven months.

Mayor Lunde stated he was fine with the amendment only because on either rule it would come back to the Council. He stated if the rule they got would get adopted, it might or might not happen before project Hotdish, which might or might not arrive, and might or might not know who the applicant was. He stated he would support the amendment and wanted everyone to be clear that that process could take longer and go beyond when they might or might not receive that project back, which the existing rules would still govern that process.

Council Member Mark Mata asked that after it went to the Met Council, and it came back, was the Council able to make changes. He stated the Met Council was going to approve and discuss their language based on what the Council gave them. He stated he didn't think they could make changes and then send it back to them.

Planning Director Sherman stated the Met Council was not going to look at their designation of land uses. They were going to look at if the land use designation the city created met their goals and intent of their vision document. Does the city have enough area for housing, have enough

area for the job creation they were anticipating, and are the road systems planned or in place for their improvements that were needed. She stated they looked at more of those technical kinds of things and weren't going to tell the city what its employment center was going to say. She stated she was comfortable with the direction the Council had given them to propose what they were going to propose and submit. She stated when it came back, if something radically was proposed to change based on their comments, then it did reopen it up to an extent but not normally a relook at the whole thing again.

Council Member Mark Mata stated the Council's intent was jobs and warehouses were not jobs, they were small jobs. He stated he had always been looking for office park, something that would bring in a lot of people. He stated when the comprehensive plan did come back, it was a super majority of votes and not a normal four to three vote to pass it.

Mayor Lunde stated they would vote on the amendment and asked Council Member Pha to read the amendment language changes.

6.1 MOTION PHA, SECOND MATA TO WAIVE THE READING AND ADOPT RESOLUTION APPROVING THE 2040 COMPREHENSIVE PLAN FOR SUBMISSION TO THE METROPOLITAN COUNCIL WITH THE FOLLOWING AMENDMENT: THE LANGUAGE IN THE 2040 COMPREHENSIVE PLAN REGARDING THE LAND USE HIGHLIGHTED IN YELLOW AS FOLLOWS: UNDER USES, "WAREHOUSING DISTRIBUTION AS PART OF A MASTER PLAN" AND UNDER SCALE/INTENSITY, "WITH AN INCREASE FOCUS ON JOB CREATION, WAREHOUSING AND DISTRIBUTION CENTERS WILL BE PERMITTED IF APPROVED BY THE CITY AS PART OF MASTER PLAN" WITH THOSE CHANGES REMOVED FROM THE COMPREHENSIVE PLAN.

Mayor Lunde stated what was seconded by Council Member Mark Mata was the amendment to the motion only and not the entire main motion. He stated it was just the amendment to the motion to make the change that was on the table.

Community Development Director Berggren stated she wanted to make sure they were not eliminating some language that was needed because they were no longer referencing warehousing in that section. She stated she was worried that the previous language might have referenced warehousing like the old language and they wanted to make sure it was accomplishing the intent of the change as they were wordsmithing it.

Planning Director Sherman stated it did limit it and maybe they would continue to use the language that they were accessory to the principle use and maybe add that in rather than taking all of the yellow out but add that information in. She stated it would continue to be accessory and not primary and asked if that got to the intent.

Mayor Lunde asked Council Member Pha if that was her intent of the amendment.

Council Member Pha stated it was her intent of the amendment.

Planning Director Sherman stated they could craft language to meet that intent and submit it. She stated she would send it out to the Council, before they submitted it to be sure everyone was on board and they could respond to her via email if that met the intent.

City Attorney Thomson asked if the motion passed, was the language in yellow going to be deleted. He stated if it was deleted, his understanding was, that with the new comprehensive plan if that was the language in it, warehousing would not be a principle use.

Planning Director Sherman stated what they were proposing was to take the language at the top that talked about the distribution warehousing were accessory to the principle use and adding that into the yellow so it further restricted it as principle use.

Mayor Lunde thought they were trying to get to the intent of what Council Member Pha said. He asked how they could match up their words for the amendment to match up the intent knowing they were going to do some wordsmithing.

Council Member Pha thought the best thing to do so they didn't have to send an email to get an approval later to get the language removed was that she would just add it into the amendment by adding that language. She stated that way they could get it done tonight. She asked if she had to read the amendment again.

Mayor Lunde suggested to Council Member Pha to withdraw her motion to amend and restate it. He stated it was going to the Met Council and wanted to be more specific on the language. Seconder Mata agreed to withdrawing the motion.

6.1 THE MOTION WAS WITHDRAWN BY COUNCIL MEMBER PHA.

6.1 MOTION PHA TO MAKE AN AMENDMENT TO THE MOTION TO REMOVE THE FOLLOWING LANGUAGE; FROM THE 2020 COMPREHENSIVE PLAN REGARDING THE LAND USE; HIGHLIGHTED HERE IN YELLOW; UNDER USES TO REMOVE WAREHOUSING DISTRIBUTION AS PART OF THE MASTER PLAN AND ALSO UNDER SCALE AND INTENSITY TO REMOVE WITH AN INCREASED FOCUS ON JOB CREATION, WAREHOUSING DISTRIBUTION CENTERS WILL BE PERMITTED IF APPROVED BY THE CITY AS PART OF A MASTER PLAN; AND TO ADD WAREHOUSING DISTRIBUTION ACTIVITIES THAT ARE ACCESSORY TO THE PRINCIPLE USE. SECONDED BY COUNCIL MEMBER MATA.

Community Development Director Berggren asked if there were scenarios where there were warehouses that were in the Business Parks. She stated she knew that was a topic of debate a lot when they talked about new businesses. She stated she wanted to make sure they were not, and her understanding today was there were scenarios where warehouses were in those areas.

Planning Director Sherman stated she was thinking about the new development areas, but the zoning would still allow warehousing distribution. She stated it was only the new developments that would be impacted. She stated it was more impactful for the undeveloped portions of the city than it was for existing, but they had other areas of the city that were proposed to be employment centers that already had distribution, and that was Community Development Director Berggren's point.

Community Development Director Berggren suggested if the direction could be to match the intent of the existing business park definition and have them work on the language for Council.

City Attorney Thomson stated that looking at the zoning code, warehousing was a principle use in the Business Park zoning district permanently, a principle use, not an accessory use. He stated his concern would be if they only allowed it as an accessory use in the comprehensive plan, was there a conflict now and that was the question.

Mayor Lunde stated that if they didn't want to preclude something that was expected, he didn't care if they voted on Hotdish or not. He stated he was okay with voting on it either way and just wanted to have the chance to vote on it someday, yes or no. He asked if it was best to wait and push it out a week to get it right because he was worried that tonight if the Council did something unintended that they precluded or created a problem. He stated it was a big deal, the comprehensive plan could wait a week, and heard the city attorney saying some things about it.

Planning Director Sherman stated the Economic Development Authority was due to meet on December 17 and suggested having a special meeting before the EDA meeting to take action on it and they could work on the language and address the concerns that had been raised tonight.

6.1 MOTION LUNDE, SECOND JACOBSON TO TABLE THE DISCUSSION ITEM TO NEXT WEEK, DECEMBER 17, 2018.

Mayor Lunde stated he wanted to give staff chance to go through what they talked about and making sure it was right.

Council Member Parks stated he didn't mind tabling it but wanted to make sure when they did do the wordsmithing that they were not tying the Council's hands on what they could develop years down the line. He stated Hotdish kept coming up and they had to come to the Council to approve it anyway and wanted to make sure when they wordsmith it that they didn't end up tying the Council and couldn't do anything later on.

Planning Director Sherman suggested they go back to the old language and leave it as it was, but there still was an issue in regard to warehousing because warehouse was a permitted use in the Business Park zoning district and not a designated land use that was allowed in the Business Park as a primary use. She stated they would bring it December 17.

6.1 THE MOTION TO TABLE PASSED UNANIMOUSLY.

7.1 Major Jeffrey Lunde briefed the Council on the appointment to the Northwest Suburbs Cable Communications Commission.

7.1 MOTION LUNDE, SECOND GATES TO APPOINT SHARON ARBEITER TO THE NORTHWEST SUBURBS CABLE COMMUNICATIONS COMMISSION REPRESENTING THE CITY AT-LARGE FOR A ONE-YEAR TERM EFFECTIVE JANUARY 1, 2019 THROUGH DECEMBER 31, 2019. MOTION PASSED UNANIMOUSLY.

7.2 Community Engagement Manager Josie Shardlow briefed the Council on the Community Events and Initiatives Partnership Policy.

Council Member Mark Mata stated he did not agree with the food. He stated it was not the city's job to provide food in those instances. He stated if the topic was good enough that wants their

discussion, then they should come for the topic. He stated it was not an all-day event for the city to spend money on food. He stated the city was providing other entities other things than having to provide food and if someone got sick or something happened, there were a lot of things that could open up for the city in the future. He asked what they were supposed to do if at an event on a Saturday they found out they were in violation of one of the things in the policy. He asked how were they going to shut it down or withdraw the city's good faith that they were going to abide by the policy and didn't. He asked if he could call the city manager and shut it down and what was in place to enforce anything they put in the policy.

Community Engagement Manager Shardlow stated a lot of it had to be done at the front end, vetting it and working with the partner. She stated that depending on what it was, it would have to be dealt with at that moment. She stated a new aspect they would have with the policy was after the fact if something happened they would have the policy in place that had a revocation clause where they could point to it and say the city could no longer partner next time because it had this in place in the policy. She stated it was about vetting it before hand and potentially acting on that moment but also having the policy insurance in the back end as well.

Council Member Mark Mata stated it should be permanently lost privileges. He stated he was not ready for the "I am sorry" and then they would correct it next time. He stated he was not looking for that. He was looking for, if they violate it, they were done, the group as long as it stayed in existence, they were done and no more second chances. He stated if they were vetted up front, they knew the rules up front and was very clear on the policy.

He stated that on the nonpartisan issue that he was not sure everyone understood that word. He stated some people thought it was Republican or Democrat or could be lower level races where someone was endorsing a candidate who didn't have to declare a party whether they were one of those two parties or another party at the higher level. He stated if the city was going to partner, he wanted to clearly make sure they were nonpartisan. He stated he saw a lot of groups coming forward that were going to do things in the city who were nonpartisan. He stated the last election was proof of that. If they were going to have the ability to use city resources to do events, they had to show that statement and thought it was a very difficult statement to produce. He stated in the city's employee handbook was political activity which didn't mean running for election. He stated political activity was a blanket word and thought it was something more they should follow if they were going to get city funds. He stated he appreciated the word changes in the policy but couldn't support it for the food. He stated he would not spend city taxpayer dollars to engage in that when they had other resources they could spend on food.

City Manager Stroebel stated Manager Shardlow explained staff's perspective that it could be challenging to try to identify if it was okay to partner in a situation, but not okay in that situation. He stated they were focused on the topic that was being proposed to be discussed, which could come from a variety of organizations. He stated if there were certain organizations the Council was concerned about the city partnering with, could Council identify those to make it more black and white. He stated that as they described every time they brought the policy before the Council, there was a certain amount of gray area involved in identifying who the city partnered with and did their best to follow those elements in the policy in practice. He stated they just wanted to help clarify and affirm that was the direction the wanted to go in.

7.2 MOTION LUNDE, SECOND PARKS TO APPROVE THE COMMUNITY EVENTS AND INITIATIVES PARTNERSHIP POLICY. MOTION PASSED (6 TO 1) M. MATA VOTED NO.

7.3 Adoption of the 2019 Proposed Budget, 2019-2023 Capital Improvement Plan, 2019-2023 Street Plan, 2019-2023 Capital Equipment Plan and 2019 Property Tax Levies.

City Manager Stroebel briefed the Council on the Adoption of the 2019 Proposed Budget; Budget Objectives, Challenges and Pressures, Budget Summary, Proposed Key Investment, and Levy Reductions.

Finance Director LaTonia Green briefed on Total Budget, 2019 Total Expenditures by Fund, 2019 Proposed Budget Expenditures, General Fund, 2019 General Fund Expenditures by Department, 2019 General Fund Expenditures by Type, 2019 General Fund Revenues, General Fund Revenues and Expenditures, Levies, Residential Single Family Properties Payable 2018-Proposed 2019, 2019 City Property Taxes, Proposed Property Tax Levies, City Manager Final Proposed Levy, Utility Funds, Utility Funds Revenues, Utility Funds Expenses, Special Revenue Funds Ice Arena, Special Revenue Funds Brooklyn Golf Park, Enterprise Fund Edinburgh USA Golf Course, Internal Service Funds Chargeback Revenues, Chargeback Expenses, and Economic Development Budget.

Operations and Maintenance Director Dan Ruiz briefed on the Proposed CEP Expenditures, Fleet/Equipment Cost Savings, Capital Improvement Plan, 2019-2023 CIP Significant Projects, Public Utilities Facilities, Transportation Facilities, Facilities/Enhancements, 2019 Parks and Facilities Heritage Projects, and 2019-2023 Parks and Facilities (OSLAD Projects)

7.3 MOTION LUNDE, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-182 ADOPTING THE 2019 BUDGET.

Council Member Mark Mata asked if there was money in the Contingency fund and how much was used last year.

Finance Director Green stated they left it flat as they did last year at \$300,000. She stated they had not used any funding from the Contingency fund this year. She stated those funds were used for emergency situations and had not had any.

Council Member Mark Mata stated if they put \$300,000 this year, used none of it and they were going to add zero to it in the budget, asked if they still had \$300,000 they could carry forward.

Finance Director Green stated \$300,00 each year. The appropriation went away and if they wanted to have that appropriation in 2019, they would have to add it to budget.

Council Member Mark Mata stated they taxed the citizens for \$300,000 to go into the Contingency Fund and didn't spend it and now this year they were going to do another \$300,000 which meant, technically, they should have \$600,000 if they did not use it. He asked where the \$300,000 went to if not used.

Finance Director Green stated that funding went back to fund balance and each year they had to maintain 35% of the fund balance to be in compliance with state requirements. She stated that because the city was tax heavy, as they were, they should have 35 -50 percent and leaned more toward 35 percent. She stated when they were doing the budget, they made sure they had enough revenues to cover expenses they had in the budget plus to make sure they had

enough fund balance that was recommended to meet the state requirements.

**7.3 MOTION M. MATA, SECOND B. MATA TO AMEND THE MAIN MOTION TO REDUCE THE CONTINGENCY BUDGET FROM \$300,000 TO \$100,000.**

City Manager Stroebel stated an example of contingency expenses in recent years was in 2017, there was a significant watermain break and it was over \$100,000 not in approved in the budget and used Contingency Funds for that situation. He stated another situation, was where the Police Department had budgeted for salaries and benefits, and for whatever reason, there was a significant influx of crime and they needed to devote additional resources to address that or other city resources. He stated if the Police Department exceeded their budgeted amount that was approved, the Contingency Fund was one of those funds that could be used to pay for those on a one-time basis.

Council Member Mark Mata stated he made an amendment to reduce the Contingency Fund from \$300,000 to \$100,000 and was reducing it by \$200,000 and the total tax obligation the taxpayers had to pay in the \$52 million range, that by his amendment, asked if that would reduce that total taxable value by \$200,000.

Finance Director Green stated the revenues they received reduced it by \$200,000 and the overall property tax, instead of it being 4.62 percent, it would be reduced by the \$200,000 and would be 4.17 percent.

Council Member Mark Mata clarified that by reducing it, it was reducing the overall taxable budget that the taxpayers would have to pay.

Council Member Parks stated if they went down to \$100,000 in the Contingency Fund and had another major break in sewer line and it came to \$150,000, asked where would they get that money if they already spent the Contingency Fund.

Finance Director Green stated if they only allocated \$100,000 for the Contingency Fund, they would have to come back and they would have to look at the total fund balance and hope they had more than \$18.3 million set aside. She stated if they had the additional \$200,000 in there, for example, if the incident happened within the first six months of the year, then they would have to see if they had the fund balance to cover that additional \$200,000.

Mayor Lunde called for a roll call vote.

**7.3 THE MOTION FAILED ON A ROLL CALL VOTE AS FOLLOWS: YES – M. MATA, B. MATA, LUNDE; NO – PARKS, PHA, JACOBSON, GATES.**

Council Member Mark Mata stated in 2017 and 2018 the city was aggressive in budgeting money back into a lot of funds, heritage funds and other services. He recalled every year the City Manager coming and saying the previous city manager had probably not funded those funds where they probably should have and now they were trying to catch up to the levels it should have. He asked if they would have funded those at half the percentage that they were funding them now for this year and caught up in three to four years down the road as opposed to trying to do what the previous Councils had done all at one time. He stated what they were trying to make him do was making him push the tax to the taxpayers to make up for

someone else's inefficiencies.

Finance Director Green stated the plan was not to rectify past mistakes or different ways of looking at the budget and rectify that in one year. She stated they were looking at a plan and recommending looking at it over a five to seven-year period. She stated that in the Heritage Fund for 2019, they had only increased it by \$100,000.

Council Member Mark Mata asked about a plan 10 to 14 years.

Finance Director Green stated they could look at a plan for that time frame as well. It was just that they didn't see that reflected in the 2019 budget. She stated that in the 2019 budget what they were trying to do was to get the revenues and expenditures to match what they should be and to get them on the right path. She stated that starting in 2020 was when they wanted to start to stabilize those funds.

7.3 MOTION MARK MATA TO AMEND THE MOTION TO FUND ALL THE FUNDS TO HALF THE PERCENTAGE OF WHAT WE HAVE THEM FUNDED RIGHT NOW FOR 2019.

Council Member Mark Mata asked if they took the calculation of each of those funds because they were all increased in dollar values. He stated that on the presentation slide they had, it was \$147,000. If they did the proportional math of \$147,000, then he was going to reduce the infusion into the funds by \$75,000, about half, and take it and divide it from there. He stated he couldn't believe that the person who sat in his seat before him allowed the city to do that. He stated he didn't know how it happened that those funds didn't stay at a progressive balance and they were asking him to ask the taxpayers to make that replenish in a much shorter period. He stated he was taking the \$147,000 and wanted to reduce dollars going into those funds by \$75,000 and let Finance Director Green do the math.

Finance Director Green asked for a clarification if Council Member Mata was only thinking of the internal service funds or also looking at the general fund.

Council Member Mark Mata stated it was internal services funds.

Finance Director Green stated the charge backs would be internal services funds.

City Attorney Thomson stated the motion on the table was to approve budget. He thought what he was addressing would be at a later motion when they were going to approve the levy for various funds. He stated right now the item was on the budget; for example, the motion you made earlier would have been to reduce the budget item for contingency from \$300,000 to \$100,000 and that was an appropriate motion. He stated Council Member M. Mata was talking about levying less to fund the heritage fund, which was not a budget item but in a later resolution.

Finance Director Green stated her understanding was that Council Member M. Mata was not requesting to reduce the heritage fund, but requesting to reduce the chargebacks, central building, central garage, ITS and Loss Control funds, which was about almost \$14 million in 2019.

Council Member Mata stated there was a slide that showed \$147,000 and the OSLAD fund was in there and it showed the infusion of dollars of \$147,000. He thanked City Attorney Thomson for the clarification and stated he would withdraw the motion.

### 7.3 COUNCIL MEMBER M. MATA WITHDREW THE MOTION.

Council Member Mark Mata asked about the golf course. He stated there was a slide shown last week that it was going to profit \$550,000 for 2019 and now showing a profit of \$17,000.

Recreation and Parks Director Yungers stated originally in the report last week it was at \$550 as a net gain in revenue over expenditures. She stated there was a correction because they were now leasing carts. She stated there was a cart expenditure in the CIP for a replacement and that was no longer the case and it was a double up in the budget and was corrected. She stated the amount of that was \$16,800 and adjusted to the \$17,000.

Council Member Mark Mata asked about the vehicle replacements. He stated they moved the police vehicles from three years to four to five years. He stated he had a 2005 truck, which was 13 years old and asked why they had to be four to five years with the vehicles. He stated they should only be used going back and forth mostly in the city. He asked if could extend it by two years on the replacement vehicle policy instead of driving new vehicles all the time. He stated it used to be the police got the top squads, and after that, they pulled the mechanics out of them, radios, lights, sirens, and they were moved down to Fire Inspection, then to the Building Inspections and driven to the ground. He asked about the fire chief sedan and replacement policy for that vehicle. He asked about the Explorers.

Operations and Maintenance Director Ruiz stated those were replacement schedules for the police vehicles. He stated when a squad car that was moved from a three year to four year replacement, when it was four years old, it would be replaced and that vehicle was reassigned internally to the police and used for a few additional years and or reassigned to city vehicles for staff in city hall and they were kept eight to ten years. He stated many of the sedans were nine or ten and the fire chief vehicles were eight or nine years. He stated the replacement for any Explorers were eight to nine years because they would be used for period of time such as heavy duty services and then reassigned within the internal department.

Council Member Mark Mata asked about the \$70,000 overpayment and overtime calculation for the full-time firefighters. He stated that had a two-year payback and now they were at the two-year payback. He asked if all of that \$70,000 was able to be retrieved that was incorrectly paid out.

City Manager Stroebel stated it was in the process of been fully repaid and was repaid on the same time cycle on which the overpayment occurred. He stated if any employees left early before the two years expired, they had asked them to pay out their balance before departing the City.

Council Member Mark Mata asked if they had an outgoing survey for people who left employment with the city as to why they left. He stated he would be interested to see if it was pay, because all he kept hearing was they needed to increase pay. He stated that on the exit surveys that are done, if they were not saying they were leaving for pay then why were they

worrying about pay not being correct because maybe compared to the peer cities, the city was overpaying them.

City Manager Stroebel stated they would like to implement a more formal exit survey process. He stated that in terms of pay, they had an employee survey recently completed and the top two items of the greatest concerns was the onboarding process and benefits process. He stated they needed to look at it next year and see how they were compared to other cities. He stated a lot of city staff was concerned about benefits relative to other peer cities. On the salaries, he stated a couple of years ago they did a Carlson Dettman study that provided evidence where they were paying relative to peer cities. He stated in other cases where they were further behind it was by job class basis and an example of that was found that some of the senior staff were underpaid by 6% relative to their peers. He stated that in the last few years they had taken steps to address it and brought them up to the levels of their peers. He stated that was something they did want to be competitive in to hire and retain great staff.

Council Member Mark Mata stated Director Ruiz mentioned the city was not purchasing a fire pumper because they had an outside consultant come in and review whether they needed more vehicles. He stated it came out they were two over, and in the presentation, it said it was reduced, but looking at Page 2, it has a fire pumper in there for \$560,000.

Director Ruiz stated there was a replacement pumper in the equipment plan for 2019 and was a completely different replacement versus the pumper he referred to in their cost savings measures back in 2017. He stated it was going to be a replacement of a fire pumper and that fire pumper was not replaced. He stated that was a different fire pumper up for replacement in 2019. He stated they were not requesting an additional fire pumper. That was replacing an existing one. He stated that in terms of how many pumpers a fire department needed, he would defer that to fire chief.

Council Member Mark Mata asked how many miles that truck that was being replaced had been driven the last year and how many calls it went on.

Fire Chief Cunningham stated Engine 11 was the one being replaced and was assigned to West Station, one of the busiest stations from a call volume. He stated in the most recent study done in 2017, the recommendation was a minimum of four engine companies and one in reserves and were operating at that level now. He stated the shared services study done in 2013 was a collaboration of areas department and was never implemented. He stated there was some reference to potential savings on using shared resources if it was a more county wide or regional approach to fire protection. He stated he was looking at the strategic plan and at the analytical data and painting a picture on what the call volumes were, where were the call volumes and what did the fire service look like today and in future. He stated the engine being replaced was an older engine of the group.

Council Member Mark Mata stated they were saying they had five fire engines in the city now, and had an aerial ladder that could also pump and that was above and beyond. He stated that would be the sixth one and that's all they had.

Fire Chief Cunningham stated the numbers were correct although the usage and how they got classified in the use was different on their capacity.

Council Member Mark Mata stated he was confused on the \$215,000 set up in budget for the Fire Department for an add on for staffing levels. He stated they had not had studies come forward to talk about whether they needed it or not, but yet they were taxing the residents \$215,000 for the what if. He stated what they should do is get the results of the survey, find out where it was going to go and from that point, start putting in funding sources and plan for it. He stated right now it looked like they were putting the cart before the horse and did not have the survey to say yes or no to it.

City Manager Stroebel stated the \$215,000 was originally the Safer Federal grant they were hoping to get and did not get it. He stated that based on conversations with Council Members and identifying their priorities, a number of Council Members had indicated their interest in preserving those resources in the proposed 2019 budget with the expectation that once the strategic plan came back, if the recommendation regarding staffing increases, that those resources would be available and ready to be used rather than coming back in middle of year and requesting resources at that time. He stated that would require going into the fund balance, which he and the Finance Director did not recommend as being a good fiscal practice. He stated that was the decision made to currently leave it in as the recommendation and the Council, if they chose, could make a different decision.

Council Member Mark Mata stated he would not support the budget and explained his no vote because they were taxing the citizens \$1.8 million plus every year, which meant the Council needed to learn to live within their means based on needs versus wants. He stated there should be technology and other things they could do that were not coming forward to the Council to reduce the dollar value. He stated the number one thing when he was out there walking the streets, was that they were paying too much in taxes. He stated it was the number one thing and with everything else they had going on in the city, it was going to be hard for Council to keep good things still in the city and were constantly increasing the budget and that direction came from the dais.

Council Member Bob Mata stated he would be voting no on the budget. He stated he hadn't voted for one yet because it had been a \$1.8 to \$2 million increase every year. He stated the city was supposed to supply police, fire, streets, water and sewer. That was their main objective and everything else was fluff. He stated if they couldn't learn to cut the fluff somewhere, they were in big trouble. He stated the citizens couldn't afford those constant increases and too many were on fixed incomes. He stated last week people came in to speak about their taxes because they were increasing. He stated he heard it consistently when he was out door knocking and was told about high taxes. He stated he promised them he would not vote for any budget with a \$1.8 to \$2 million increase.

7.3 Mayor Lunde called for a roll call vote on the main motion.

7.3 THE MOTION PASSED ON A ROLL CALL VOTE AS FOLLOWS: YES – PHA, JACOBSON, GATES, PARKS, LUNDE; NO – M. MATA, B. MATA.

7.3 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2018-183 APPROVING THE 2019 FINAL TAX LEVY FOR THE GENERAL FUND AND THE DEBT SERVICE FUNDS AND CERTIFYING THEM TO HENNEPIN COUNTY. MOTION PASSED (5 TO 2) B. MATA AND M. MATA VOTED NO.

7.3 MOTION LUNDE, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-184 APPROVING A SPECIAL BENEFIT TAX AND CITY TAX LEVY FOR THE PURPOSE OF DEFRAYING THE COSTS INCURRED BY THE BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY UNDER ITS HOUSING AND REDEVELOPMENT POWERS FOR THE YEAR 2019. MOTION PASSED UNANIMOUSLY.

7.3 MOTION LUNDE, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-185 ADOPTING THE 2019-2023 STREET IMPROVEMENT PLAN. MOTION PASSED (6 TO 1) M. MATA VOTED NO.

7.3 MOTION LUNDE, SECOND GATES TO WAIVE THE READING AND ADOPT RESOLUTION #2018-186 ADOPTING THE 2019-2023 CAPITAL IMPROVEMENT PLAN. MOTION PASSED (5 TO 2) B. MATA AND M. MATA VOTED NO.

7.3 MOTION LUNDE, SECOND GATES TO ADOPT THE 2019-2023 CAPITAL EQUIPMENT PLAN – VEHICLES, MISCELLANEOUS, AND INFORMATION TECHNOLOGY EQUIPMENT. MOTION PASSED. (5 TO 2) B. MATA AND M. MATA VOTED NO.

#### 9A COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

Council Member Pha stated last week she and Council Member Parks attended the Census 2020 Coalition meeting. She stated it went well and met with many community members and Council members from Brooklyn Center, with staff, stakeholders and community organizations regarding getting prepared for the Census 2020. She invited the Council to the next meeting on February 13, 2019, at the Community Activity Center.

#### 9B CITY MANAGER REPORTS AND ANNOUNCEMENTS

City Manager Stroebel stated on Wednesday, December 12, was the Highway 252 open house, from 5:30-7:30 p.m. at the Community Activity Center.

At the beginning of the EDA meeting there would be a special meeting next Monday on December 17, 2019.

He thanked Council Members Bob Mata and Rich Gates and stated that as a city manager it was a privilege to be in that role and work with elected officials. He stated they made his job rewarding and would miss conversations they had every Monday afternoon. He wished them the best and would see them in City Hall and to come in and say hello.

City Attorney Thomson stated they did have one item they had not acted on the comprehensive plan. He stated they could continue tonight's meeting to a time certain next Monday if they knew that was what it was going to be, otherwise they would have to post a notice for a special meeting and asked if it was going to be at 7 pm. He suggested adjourning tonight's meeting to Monday December 17, at 7 p.m.

10.1 MOTION LUNDE, SECOND GATES TO ADJOURN THIS MEETING OF THE BROOKLYN PARK CITY COUNCIL TO DECEMBER 17, 2018 AT 7 P.M. IN RECOGNITION OF AND RESPECT FOR THE LIFE AND CONTRIBUTIONS OF STEVE ERICKSON AND

RESPECTFULLY ASK THE SUPPORT OF FELLOW COUNCIL MEMBERS.

MR. ERICKSON SERVED ON THE NORTH HENNEPIN AREA CHAMBER OF COMMERCE AS EXECUTIVE DIRECTOR SINCE 2013. WHILE AT NORTH HENNEPIN AREA CHAMBER OF COMMERCE, MR. ERICKSON WAS INSTRUMENTAL IN INTRODUCING VARIOUS NEW INITIATIVES TO BUILD JOBS, HELP STUDENTS, TEACH LEADERSHIP SKILLS AND PROVIDE A HIGHER LEVEL OF BUSINESS MANAGEMENT SKILLS RESOURCE, INCLUDING CAREER PILOTS, THE NEW TEACHER WELCOME, THE LEADERSHIP ACADEMY, THE LEADERSHIP FORUM, THE MANUFACTURERS CONSORTIUM, AND THE NORTHWEST QUADRANT DEVELOPMENT CONFERENCE.

HIS DEDICATED CONTRIBUTIONS TOUCHED MANY LIVES THROUGHOUT THE CITY AND THE SURROUNDING COMMUNITIES.

I FURTHER REQUEST THE MOTION BE MADE A PART OF THE PERMANENT RECORDS OF THIS BODY AND THAT A LETTER BEARING THE CITY SEAL AND THE SIGNATURE OF THE MAYOR BE SENT TO THE FAMILY ADVISING THEM OF THIS ACTION AND WOULD ADJOURN THE MEETING UNTIL NEXT WEEK, DECEMBER 17, 2018 AT 7 P.M.

THE MOTION PASSED UNANIMOUSLY.

ADJOURNMENT – With consensus of the Council, Mayor Lunde adjourned the meeting at 10:39 p.m. until next week, December 17, 2018 at 7 p.m.

JEFFREY JONEAL LUNDE, MAYOR

DEVIN MONTERO, CITY CLERK

## REGULAR BROOKLYN PARK CITY COUNCIL MEETING

Monday, March 11, 2019  
7:00 p.m.

Brooklyn Park Council Chambers  
5200 85th Avenue North

CALL TO ORDER – Mayor Jeffrey Lunde

PRESENT: Mayor Jeffrey Lunde; Council Members Tonja West-Hafner, Susan Pha, Mark Mata, and Wynfred Russell; Acting City Manager Wokie Freeman-Gbogba; City Attorney Jim Thomson; Deputy Police Chief Mark Bruley and City Clerk Devin Montero.

ABSENT: Council Members Lisa Jacobson (excused) and Terry Parks (excused).

Mayor Lunde opened the meeting with the Pledge of Allegiance.

### 2A RESPONSE TO PRIOR PUBLIC COMMENT

Acting City Manager Freeman-Gbogba stated at the last Council meeting a resident appealed to the Council to not support legalization of marijuana at the State level and there were no other questions or comments to respond to.

### 2B PUBLIC COMMENT

Jennifer Geisinger, 7701 Oxbow Creek Circle. She stated it was regarding Agenda Item 4.6 Northbrook Business Center North 4<sup>th</sup> addition. She asked the Council to discuss the distribution facility prohibition in that area. She stated there had been some debate in the last few months about project “Hotdish” whether that included a fulfillment center. She stated some people found those terms interchangeable and they had been informed they were not. She asked if it was a good time before Council approved the 4<sup>th</sup> Addition to clarify whether the distribution prohibition also encompassed a fulfillment center prohibition.

3A. MOTION MATA, SECOND LUNDE TO APPROVE THE AGENDA AS SUBMITTED BY THE CITY CLERK WITH ITEMS 4.2, 4.5, and 4.10 PULLED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. MOTION PASSED UNANIMOUSLY.

### 3B PUBLIC PRESENTATIONS/ PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS

3B1 Assistant Finance Director Jeanette Boit-Kania introduced new employees to the Finance Department.

3B2 Deputy Chief Mark Bruley presented the Citizen’s Award to Barry Jensen for his heroic actions.

3B2 MOTION LUNDE, SECOND MATA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-37 ACKNOWLEDGING CONTRIBUTIONS TO THE CITY OF BROOKLYN PARK.

B3 Human Rights Commission Chair Christian Eriksen presented the 2018 Annual Verbal Report and 2019 Work Plan.

4.0 MOTION LUNDE, SECOND PHA TO APPROVE THE FOLLOWING ADMINISTRATIVE CONSENT ITEMS:

4.1 MOTION LUNDE, SECOND PHA TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR THE CHURCH OF ST. VINCENT DE PAUL FOR THEIR AUCTION FOR EDUCATION TO BE HELD APRIL 27, 2019 AT 9100 93<sup>RD</sup> AVENUE NORTH.

4.3 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-38 TO AWARD THE BID FOR THE 2019 BITUMINOUS OVERLAY PROJECT TO NORTHWEST ASPHALT, INC.

4.4 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-39 TO APPROVE THE BID AWARD FOR THE 2019 STREET TRAFFIC CENTERLINE STRIPING PROJECT ON CITY STREETS TO AAA STRIPING SERVICE CO.

4.6 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-40 APPROVING FINAL PLAT OF "NORTHPARK BUSINESS CENTER FOURTH ADDITION," SUBDIVIDING 147.17 ACRES INTO TWO OUTLOTS NORTHWEST OF WINNETKA AVENUE AND OXBOW CREEK DRIVE.

4.7 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-41 APPROVING PLANS AND AUTHORIZING ADVERTISEMENT FOR BID FOR 2019 SANITARY SEWER LINING, CIP 3001-19.

4.8 MOTION LUNDE, SECOND PHA TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR BROOKLYN PARK LIONS FOR THEIR SMELT FRY TO BE HELD APRIL 24-26, 2019 AT THE ARMORY GYMNASIUM, 5500 85<sup>TH</sup> AVENUE NORTH.

4.9 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-42 TO APPROVE THE AMENDMENTS TO EMPLOYEE HANDBOOK POLICIES 10.14 – VACATION AND 11.10 – VACATION PAYOUT.

4.11 MOTION LUNDE, SECOND PHA TO RECEIVE AND PLACE ON FILE THE PETITION FOR VACATION OF ALL EASEMENTS ASSOCIATED WITH OUTLOT B AND 10214 REGENT AVENUE N. (LOT 1, BLOCK 1) OF WINDCHIME TRAIL PLAT.

4.11 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-43 ORDERING A PUBLIC HEARING FOR THE VACATION OF ALL EASEMENTS ASSOCIATED WITH OUTLOT B AND 10214 REGENT AVENUE N. (LOT 1, BLOCK 1) OF WINDCHIME TRAIL PLAT.

MOTION PASSED UNANIMOUSLY.

4.2 Council Member Mata stated they were talking about dedicating land at River Park in lieu of park area. He stated the city was found in violation of the grant and had to change where the land development was because the city ended up building a cell tower. He stated they were

going to dedicate it and move it to River Park and the Council just had a work session presentation on River Park and they were looking at rededicating some of the land. He stated the discussion was about kayaking, other rentals, and things that were going to be going on in that area and if they created a business there and the city didn't own it or changed to something different, asked if that was putting it at a risk of violating it all over again.

Recreation and Parks Director Yungers stated it was a possibility. She stated that in 1997 when they were redeveloping Sunny Lane Park, the Recreation and Parks Director applied for a DNR outdoor grant. She stated that as part of the agreement when the Council signed, when they accepted the grant, accepted that the only use of the park property was for outdoor recreational use and there was a recreational covenant put on. She stated that by the language, it was on the entire property. What the proposal being presenting tonight was that a mistake was made and did in fact build a cell tower on the property. She stated that in 2014, the DNR noticed they were in violation and notified the Recreation and Parks Director and said they had two options: remove the cell tower and not use the generation, or after discussion with the city attorney, they could not pay back the \$10,000 loan. She stated they did collect \$20,000 a year from the cell tower revenue. She stated she worked with the Grants Manager and the only viable option they came up with was to transfer the recreation covenant.

She stated that to do it, it had to be a purchase of new park property and couldn't transfer it to the existing park property. She stated that since the notification, they did acquire River Park, the additional property on the south. She stated if the Council was to accept the transfer of covenant, they did have to only use that park property for outdoor recreation purposes and couldn't put a private business or cell tower in River Park in its entirety.

She stated that in doing so, didn't think they were at risk because there was no viable spot within River Park knowing how precious that park was as it sat on the Mississippi River. She stated she didn't think there was a risk to taking and transferring the covenant. She stated the DNR was a partner and had been a funder and were applying for a DNR grant. She stated the DNR Grant Manager would like to see the process concluded and approved prior to submitting the grant for \$250,000.

Council Member Mata stated that it was not that they didn't have funds to pay the money back, they didn't have a mechanism to accept the funds back. He asked if the covenant was a lifetime.

Recreation and Parks Director Yungers stated that as per the language and definition by the City Attorney, and the understanding and comments by the DNR, it was a lifetime covenant.

Council Member Mata stated that in the future, if they were going to receive grant money to make sure there was a timeline in there because it looked like they received enough funds to cover that 10 times over and really didn't need the \$10,000 grant to go in there with that type of covenant against the city.

He asked if there was a way they could divide the parcel that they just purchased and call it "River Park South" invisibly, only by plat name and was another parcel of land and was not platted with River Park. If something was to happen with River Park's current plat now, it would not affect "River Park South." He stated it was a two plus acre piece of land they were going to dedicate and stayed with that particular plat. He stated what they were doing was looking and saying they would only take it on new land, where River Park was old land, and try to restrict the

city on a larger piece of parcel of land. He stated in Item 4.10, they had a couple of pieces of the city's land he would like to dedicate and the covenant for that land, they would never be built on because they could just give them away and the covenants went with those pieces of land.

Recreation and Parks Director Yungers stated they did the replatting of the park land at the time they purchased 4840 Mississippi Lane and then they resold the house on the property. She stated that it was at that time that replatted the park and included that acreage. She stated they would have to go through the replatting process to do that again. She stated her concern was in talking to the Grant Manager at the DNR, that they see it as playing a game. She stated she would never recommend any cell towers on River Park as they saw the park as unique and that was why they purchased the additional land because the land on the river for park land was precious.

Council Member Mata stated she was using the words cell towers and he was using the words any business other than a recreational purpose. He stated that was what they were being held accountable for was any business other than recreation, i.e., someone selling ice cream and the city built an ice cream hut and was a privately owned business. He asked if that business was now different from someone doing recreation if they attached it to the entire River Park where they were land locking River Park in the future for 3.3 acres and were land locking 40 acres.

Recreation and Parks Director Yungers stated she asked a similar question to the DNR manager and she was concerned that in the future they talked about creating a pad for bringing in mobile food trucks and or there might be someone who decided that they would have to build a building and the city would own it and could do concessions out of it and use a private vendor to come in. She stated that would be allowable because it was a part of an amenity within the park and would be a viable option. She stated it was when it would be a private development that would come, on such as a cell tower or a private business, that would build within the park. She stated they would be going against the covenant that would be placed on River Park.

Council Member Mata stated his only suggestion was to not land lock the ability of a future Council that could change with different needs down the road. He stated they were going to put in a forever covenant on a large piece of land. He stated he was in favor that they went back to the replatting process and plat out the southern part they were going to receive and that was their dedication. He stated the replatting process couldn't cost more than \$1,000. He stated he was just trying to not handcuff the Council in future; otherwise, find a different piece of land to handcuff. He stated the Council didn't know they were in that situation when it first came about and now were giving up a huge piece of land.

Recreation and Parks Director Yungers stated they couldn't just find any property to transfer the covenant. She stated it must be of equal recreational outdoor value to transfer the covenant and must have occurred after the point to which the grant was given. She stated it was restricted in that way and wanted to represent the DNR and their interest. She stated the next item was the approval of the MN DNR outdoor recreation grant for River Park and was under the same guidelines and restrictions of covenant. She stated that by transferring the covenant, and if they approved the application for the River Park grant, the Council was doing the same thing. She stated she didn't have any concerns or issues related to the covenant.

Council Member Mata stated he would be voting no. He stated the DNR hadn't fined them or told them that they had to do it. He stated he was sure they would give them five or more years

to find a new park that came up and they could attach covenants to it, an equal size piece of land and not give them 10 times worth it.

Council Member West-Hafner stated she had the same question, if they could replat it and take it out, but if the Council approved the application for another grant, they were going to have a covenant on it any way. She asked what steps they were taking or were putting in place to make sure when Director Yungers was not at the city, that someone knew it was there and couldn't do a cell tower and couldn't do those types of things. She stated the Council depended on staff to help them to keep track of those things.

Director Yungers stated she sat down with the City Assessor and they would do a paper file memo and flag the covenant within their database, so the same thing didn't happen. She stated they were working on the best approach to do it and the City Assessor was the one that did the actual assessment seen in the report because they needed an assessed value.

#### 4.2 MOTION LUNDE, SECOND RUSSELL TO WAIVE THE READING AND ADOPT RESOLUTION #2019-44 TO APPROVE TRANSFER OF OUTDOOR RECREATION COVENANT FROM SUNNY LANE PARK TO RIVER PARK.

Mayor Lunde stated he agreed with Council Member Mata. He stated a couple of years ago they had the group that wanted to put in a place to store canoes or the long row and that kind of thing could happen. He thought if the park was successful, maybe a private business might want to do canoe rides or kayaking from the river down to the park.

Director Yungers stated that anything that supported outdoor recreational activities would be a viable use of the property. She stated that it was only something outside recreation or environmental education that would not be viable.

#### 4.2 THE MOTION PASSED. (4 TO 1) MATA VOTED NO.

4.5 Council Member Mata stated they had a map in the previous agenda item that showed River Park and showed two ball field diamonds. He stated there were two fields in there that drew a lot from the city and for years had games there for youth. He stated it brought people from all over the city to the different parks because they had marquee fields. He stated that at their work session they talked about the ballfields going away as far as being dirt and backstops that signified an actual ball field. He stated that now he did not know that accepting it would put in covenants which meant no future business plan of any sort outside of recreation would ever be deemed viable at that park. He stated there were many things that came up in technology that might use things at that site to save taxpayers money down the road. He stated he wouldn't support it and would be voting no.

#### 4.5 MOTION LUNDE, SECOND PHA TO WAIVE THE READING AND ADOPT RESOLUTION #2019-45 TO APPROVE APPLICATION OF MN DNR 2019 OUTDOOR RECREATION GRANT FOR REDEVELOPMENT OF RIVER PARK. MOTION PASSED. (4 TO 1) MATA VOTED NO.

4.10 Council Member Mata commented on the two solid yellow pieces of land shown on the map. He stated the staff report talked about the city had some maintenance costs and if the city was expending any dollars, they should rethink what they were even doing there if they were putting money into it. He stated there were two pieces of land, and earlier the

Council talked about moving dollar values and land. If those pieces of land didn't have value asked why did Three Rivers Park District want them. He stated if there was value, they should sell them, otherwise, just hold them. He stated it cost the city nothing to hold them and didn't know what they might need something for, maybe a cell tower in the middle of the triangle for the wooded lot. He stated they couldn't build one in River Park and along the river. He stated there was a lot of things that went along there that could make money for the city and was out of the way of neighbors and they neighbors wouldn't see it. He stated those were outlots they were going to give away to Three Rivers Park District and asked for nothing in return, all because the city was receiving them for little or no value. He stated someone was taking those in and were giving them away for free. He proposed that the Council table it and talk about it or not give the land away for free.

Recreation and Parks Director Jody Yungers stated over the last two years they had been working in partnership with Three Rivers Park District on the joint Master Plan for what was the Coon Rapids Regional Dam Park and Environmental Nature Area. She stated the current property shown in the green stripe of the map was Three Rivers property and the yellow striped and solid yellow lines were city property. She stated as they were developing the Master Plan, it was a clean-up, and right now it operated and functioned as part of the Three Rivers property. She stated the city put very little maintenance in it but was held accountable. She stated they were just attempting to define cleaner ownership because those properties, the one on the lower end was Island View Park and was the dedication of the development across the street was paid at \$33,000. She stated that property we deemed unusable by the developer and given to city and not part of the park dedication. She stated they could leave the property as is and it was just a process to clean up the boundaries of property. She stated Three Rivers had paid over \$50,000 of the Park Master Plan development and the city had not paid anything yet. She stated the city was at the table as a partner and would start to spend on the design development. She stated it was just a part of cleaning up property ownership that was aligned with how the park was currently being used and could try to leverage it as they negotiated going forward. She stated she would be bringing that plan to the Council in the spring.

Council Member Pha stated even if the city received land at no cost, it had a value associated with the land. She stated she would like see that the city get reimbursed for that land, trade or some kind of land banking that said the city was giving them that piece of land, but in the future if there should be other projects, the city worked with Three Rivers and they had land, the city needed something in return something similar of value or size. She stated she was sure there were instances where they were giving the city things or the city giving them things, but she didn't have that historical knowledge that it has happened before. She stated that in the future, the Councils or Commissioners of Three Rivers would have to have that knowledge that at one point in time the city gave them land for free and they should do the same to the city. She asked if that ever happened and how the process worked.

Recreation and Parks Director Yungers stated there had been a lot of negotiations in the past around the city gaining property through park dedication and buying it back. She stated that in the North Park, for example, when they acquired park dedication, they took some land for buffer land on the north part of the regional trail to create a more of a buffer than the developer had proposed. She stated they negotiated that strip of property and it would be something that would be used in the future as land transfer to the regional trail. She stated they had done that in the past even in some of the exchanges on Highway 169 and were also doing land exchanges. She stated Three Rivers had been a good partner and her experience with Three Rivers was they

wanted to have like value of land swaps and sometimes got into negotiations around the definition of "like."

Council Member Mark Mata stated he was not a fan of the gentlemen's agreements and would rather see it in writing. He stated the school district, which was another board organization that sat inside the community that the city traded things with, and it took until recently for them to jump on the city's water, which would save taxpayers a piece of the pie there. He stated he would like to see the city change the land when it was time to change the land and they handed something back to the city instead of giving it away. He stated he would like to see them get something for it and if it was not valuable, asked why they wanted it. He stated it would give them time to get market value of the land and have a fair dollar value at that point of what to exchange with. He stated it was a second reading and was not appropriate for him to make a motion to change it. He stated what needed to happen was to have four votes to vote no; then it became a failed motion.

Mayor Lunde stated they just needed two to vote no according to rules of the Council it took four to say yes and didn't matter how many the Council had tonight. He stated if it was three to two, it failed.

Council Member Mark Mata stated if two people voted no, any one of two Council Members not present could bring that motion back to the table because they didn't vote on it and the Council tonight would get to talk about it all over again. He stated he would like to see it done at one time and if there were four Council Members willing to vote no and asked to change the land when the city was willing to get something from them at the same time.

City Attorney Thomson stated the city charter required four affirmative votes to pass or deny anything. He stated since there were five Council Members tonight, if it was a three to two vote either way, nothing would pass or nothing would fail. He stated they will need to have it back on the agenda. He thought what Council Member Mata was thinking about was a Motion to Reconsider, and the only ones that could make that motion were the ones that voted on the prevailing side and the two missing Council Members. He stated the staff will put it back on the agenda for their consideration if they couldn't get four votes tonight one way or the other.

He stated he understood all the issues and that land was restricted for only park use. He stated it was the only use that could be made of it because it was a dedicated park. He stated transferring it to Three Rivers was still consistent with that because they were going to use it for a park. He stated they could have it appraised, but if the only use of the land was for park purposes, it would not have much value because it couldn't be used for any other purpose.

Council Member West-Hafner asked if the city attorney said they couldn't put in the future, potentially, a cell tower or anything on that land anyway.

City Attorney Thomson stated the cell tower issue came up because of a deed restriction from the DNR. He stated it wasn't just because the city owned it as a park. He stated if they just had park property dedicated on a plat, they needed to use it for park purposes. If they were going to use it for something else that didn't interfere with the park purposes, they probably could still do that but for a deed restriction. He stated that was why using Sunny Lane Park as a portion for a cell tower did not interfere with use of overall property. He stated it wasn't a problem from a deed dedication, it was a problem from the grant restriction that caused the problem.

Council Member West-Hafner stated she wanted to make sure she was clear on that because if it was something that the city couldn't ever do in the future, it didn't make any sense to not just transfer the property. But if that was a potential future use, she agreed that the city hold on to it until they figured out what the Three Rivers Park District was going to come back and ask for as far as being a partner in the park. She stated that maybe that was part of the city's payment for it if they were going to take those pieces of land as the city's contributions, but doubted it was enough.

Recreation and Parks Director Yungers stated the Council had before them a negotiation of a land lease agreement for a part of the joint Master Plan as they would be negotiating the use of city property on the Environmental Nature Area for the maintenance facility. She stated that as part of that agreement, and they had not gotten the details on it yet, they were thinking they would maintain both sides of the park. She stated there were negotiations that they would do the capital investment on the city side of the park and they would use the city's part of the park to build their maintenance facility and the city would do a land lease agreement and an exchange for that land lease agreement. She stated they could bundle it and put it all together and that would be an option of delaying it that they could use that and take that approach. She stated she was open to that idea if that helped the Council in any way.

Mayor Lunde stated he would put the motion on the table. He thought that was where the Council needed to go, and vote on it. He stated he would rather hold off on it as well and would rather have the motion on the table fail. It would come back and be discussed later as part of one big bundle and not have pieces out there.

City Attorney Thomson stated if that was the wishes of the Council, rather than having a failed motion, it would better tabling it and directing staff to bring it back at the same time they brought back the negotiation on the maintenance agreement.

4.10 MOTION LUNDE, SECOND RUSSELL TO TABLE INDEFINETLY UNTIL SUCH TIME WE BRING THE OTHER AGREEMENT FORWARD. THE MOTION PASSED UNANIMOUSLY.

At 7:58 p.m., Mayor Lunde departed the Chambers and Mayor Pro Tem Pha took over the meeting.

6.1 Planning Director Cindy Sherman briefed the Council on the Rezoning #18-112 to Rezone Eight Business Parcels from Business Park (BP) to General Business District (B3) at 8500, 8501, 8504, 8508, 8509, 8511, and 8517 Xylon Avenue North; and 8501-8509 Wyoming Avenue North.

At 8:01 p.m., Mayor Lunde returned to the Chambers and took over the meeting.

Council Member Mata stated they had a lot of different districts and had businesses that had drive thru's but yet a drive-thru was not allowed closer to the stations, the planning areas. He asked if that was because it was different zoning.

Planning Director Sherman stated that was correct and different zoning districts had different regulations. She stated when they did the TOD zoning areas, a lot of the discussion was around trying to make it more focused on pedestrians and transit and not on cars. She stated that was the reason that drive thru's were eliminated through the process in some of the station areas

and not all of them. She stated that area was not in the station area and they were not proposing any changes to any of the regulations that applied to those areas. She stated they were just rezoning the properties.

Council Member Mata stated he voted no to the first reading and was voting no to the second reading for the same reasons.

6.1 MOTION LUNDE, SECOND PHA, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2019-1238 AMENDING CHAPTER 152 REZONING 12.45 ACRES FROM BUSINESS PARK (BP) TO GENERAL BUSINESS DISTRICT (B3) NORTH OF 85<sup>TH</sup> AVENUE BETWEEN WYOMING AVENUE AND HIGHWAY 169. MOTION PASSED. (4 to 1) MATA VOTED NO.

7.1 Mayor Lunde briefed the Council on the Commission appointments.

7.1 MOTION LUNDE, SECOND PHA TO:

7.1 APPOINT AKEEM ADENIJI TO THE BUDGET ADVISORY COMMISSION REPRESENTING THE CITY AT-LARGE EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT SANDRA STERN TO THE BUDGET ADVISORY COMMISSION REPRESENTING THE EAST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT ERIC PONE TO THE BUDGET ADVISORY COMMISSION REPRESENTING THE WEST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 CHANGE NANCY OMONDI'S BUDGET ADVISORY COMMISSION APPOINTMENT FROM CITY AT-LARGE TO HER RESIDING CENTRAL DISTRICT EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2020.

7.1 APPOINT KIM RIESGRAF TO THE BUDGET ADVISORY COMMISSION REPRESENTING THE CITY AT-LARGE EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2020.

7.1 APPOINT AMY MEUERS TO THE COMMUNITY LONG-RANGE IMPROVEMENT COMMISSION REPRESENTING THE CITY AT-LARGE EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT YORDANOS KIFLU-MARTIN TO THE COMMUNITY LONG-RANGE IMPROVEMENT COMMISSION REPRESENTING THE CITY AT-LARGE EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT SHEILA ITEGHETE TO THE COMMUNITY LONG-RANGE IMPROVEMENT COMMISSION REPRESENTING THE EAST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT KATHY FRASER TO THE COMMUNITY LONG-RANGE IMPROVEMENT COMMISSION REPRESENTING THE CENTRAL DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT DONEVA CARTER TO THE COMMUNITY LONG-RANGE IMPROVEMENT COMMISSION REPRESENTING THE WEST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 CHANGE AJA KING'S APRIL 1, 2019 TO APRIL 1, 2022 HUMAN RIGHTS COMMISSION APPOINTMENT FROM THE CENTRAL DISTRICT TO CITY AT-LARGE.

7.1 APPOINT CINDY SHEVLIN-WOODCOCK TO THE HUMAN RIGHTS COMMISSION REPRESENTING THE CENTRAL DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT KIMBERLY CARPENTER, TO THE HUMAN RIGHTS COMMISSION REPRESENTING THE EAST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT MARSHELL MORTON-SPEARS TO THE PLANNING COMMISSION REPRESENTING THE CITY AT-LARGE EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT CAROL VOSBERG TO THE PLANNING COMMISSION REPRESENTING THE EAST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT MICHAEL KISCH TO THE PLANNING COMMISSION REPRESENTING THE CENTRAL DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT COLLEEN GROEBNER AND FRANCIS KILLEN TO THE RECREATION AND PARKS ADVISORY COMMISSION REPRESENTING THE CITY AT-LARGE EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 TO APPOINT CINDI MATTHEW TO THE RECREATION AND PARKS ADVISORY COMMISSION REPRESENTING THE CENTRAL DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

7.1 APPOINT DWAIN ERICKSON TO THE RECREATION AND PARKS ADVISORY COMMISSION REPRESENTING THE WEST DISTRICT EFFECTIVE APRIL 1, 2019 FOR A THREE-YEAR TERM TO EXPIRE APRIL 1, 2022.

THE MOTION PASSED UNANIMOUSLY.

7.2 Acting City Manager Freeman-Gbogba briefed the Council on the Code of Conduct for Brooklyn Park Boards, Commissions and Committees.

Council Member Mata asked what happened when a Chair failed to act and if that was spelled

out. He gave an example about one member deciding they were going to do something that violated the policy and the Chair had favoritism toward one member and failed to act at that moment. He asked if there were procedures in the policy for it and how did it deal with, he said- she said situations.

Acting City Manager Freeman-Gbogba stated if a Chair failed to act, that under the Accountability and Consequences, it stated that any commissioner could request that the Chair give a verbal correction. She stated commissioners would have that right as well and not just the Chair. In a situation where the Chair still did not do so, typically a Council Member or staff member was present at those meetings and anyone of them could also bring that item forward to the City Manager and the Mayor as complaint or violation of the Code of Conduct. She stated that in terms of trying to decipher the truth in the middle, stated there was information in the policy that talked about independent fact finding, whether it was done independently or done through internal resources to the city, either through the Human Resources Department, who was trained to do investigations, Police Department and/or City Attorney. She stated they would hope that through interviews of people involved, they would get to the bottom of it.

Council Member Mata asked about the Legal Issues slide. He stated it had possession and use of deadly weapons and asked what that meant. If it meant they were coming to City Hall with it or they had been arrested for it in the past, or did it mean whether they didn't pay for taxes. He asked if they did criminal background checks on people and didn't think they did it when someone applied for a Commission.

Acting City Manager Freeman-Gbogba stated those other sections were sections that were included before and was just some clarification. She stated the Section on Possession and Use of Dangerous Weapons, on Page 6, said, "Possession or use of a dangerous weapon is prohibited on city property, in city vehicles or in any personal vehicle being used for city business and includes members serving on commissions with valid permits to carry arms. The city reserves the right to search and inspect property and persons while on city premises or while engaged in city commission business off premises."

She stated the Section on Legal Issues were the laws that pertained to public meetings and information on the Open Meeting Law, violation of that Open Meeting Law, serial communications, ensuring compliance, and then talking about when there were committees and working in groups what the laws were that governed Commissions and Boards. She stated it also talked about other sections such as Data Practices, Conflicts of Interest, Liability and Gifts, and that was what the legal issues were.

Council Member Mata asked about the social media, if they were asking everyone applying for a commission to giving the city access to their Facebook page and any other social media they had. He stated if that was going to be in the policy, then someone on social media should not throw stones and talk negatively toward people and they could be held accountable; otherwise, they didn't have the city's best interest at hand there. He asked how they were monitoring it if they were going to put in a section on social media.

Acting City Manager Freeman-Gbogba stated that section did talk about responsibilities of serving on a commission. She stated the city had established guidelines for appropriate use of social media. The Code of Conduct again said, any person could report a violation, report some suspicion of a violation and that information would be investigated by the City Manager's office

as well as the City Attorney. She stated a person could not represent himself or herself as a commission in making statements on behalf of a Commission on social media. She stated that all of the guidelines toward being ethical and respectful also applied through social media. She stated there were responsibilities to be respectful through social media and if a person violated that, then they would be called into question.

Council Member West-Hafner suggested adding language that said, "the city has established guidelines for appropriate use of social media and those established guidelines are here and referred to by reference." She stated it was saying it was for those who applied and was clear and not just referencing them and by signing it they were understanding it too.

Acting City Manager Freeman-Gbogba stated on Page 4 of the Code of Conduct, under Social Media, it said, "To assist members serving on advisory boards, committees or commission, with making responsible decisions about use of social media, the city has established guidelines for appropriate use of social media. This code of conduct applies to members serving on commissions for the city of Brooklyn Park."

Council Member Pha stated she supported the Code of Conduct for commissioners. She stated there were studies that had been done that showed when a group of people was presented with ground rules and expectations, often times at the beginning they actually worked more effectively and more efficiently together as a group. She thought the Code of Conduct was essential in commissions.

Mayor Lunde asked when it said Mayor, did it also mean Mayor Pro Tem and asked if they had to spell that out. He stated in the Council Rules the Mayor could be the person who the complaint was directed toward and the Mayor Pro Tem was the person who had to act. He stated he didn't want to just say Mayor and asked if that was assumed. He stated he wanted to make sure that somewhere in there the Mayor Pro Tem had the power to step in if the Mayor was not available.

City Attorney Thomson stated that policy was different than the Council one. He stated in the Council policy they had to say the Mayor Pro Tem in case it was the mayor that did something inappropriate. He stated the commission policy, they were just saying mayor because by definition, the Mayor Pro Tem served in the place of the Mayor if the Mayor was not available.

Mayor Lunde asked about legal weapon and how a searched happened. He stated he knew that in the past a Council Member who had a conceal and carry permit had concealed and carried in the chambers. He stated he was not interested in searching them and asked how that played out.

Deputy Police Chief Bruley stated that in a city building they could not restrict people from carrying a legal fire arm, meaning they had a permit to carry. He stated they would not search them or ask them and would not be a legal authority for them to do so because they couldn't restrict them from that right in the building. He stated that included anywhere where they had access to the public. If they went behind the locked doors into a private conference room then yes they could restrict it because that was an employee only area.

Mayor Lunde stated it seemed opposite from what he was reading and didn't think a person checked their rights at door when they were just a member of a commission and they were not

going not search them. He stated he was wondering if that should be in there if that was something they were not going to do, and would rather not have it in there.

City Attorney Thomson stated that as he was reading it, thought what happened was that it was carried over from Employee Handbook. He stated cities did have more rights with respect to employees. He suggested if that was the only issue with the policy and everything looked okay, was to pass it subject to the revision of Paragraph 6 to make sure it accurately stated the law and he could work with staff to do that.

7.2 MOTION RUSSELL, SECOND LUNDE TO APPROVE THE CODE OF CONDUCT FOR BROOKLYN PARK BOARDS, COMMISSIONS, AND COMMITTEES. MOTION PASSED UNANIMOUSLY.

7.3 Acting City Manager Freeman-Gbogba briefed the Council on the updated resolution setting standards for Boards and Commissions.

7.3 MOTION LUNDE, SECOND WEST-HAFNER TO WAIVE THE READING AND ADOPT RESOLUTION #2019-46 REPLACING RESOLUTION #2018-20 SETTING STANDARD FOR BOARDS AND COMMISSIONS. MOTION PASSED UNANIMOUSLY.

#### 9A COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

Mayor Lunde stated he, along with Council Member Russell and staff, hosted a press conference with Congressman Dean Phillips and U.S. Senator Tina Smith on Sunday to talk about the efforts to try to head off the DED status expiration which was due at the end of the month. He stated the press conference was successful in regards that it did represent what the Council had passed previously. He stated they stuck to the script of what the Council had passed, which was that the Council wanted some resolution and ability for people to stay.

#### 9B CITY MANAGER REPORTS AND ANNOUNCEMENTS

Acting City Manager Freeman-Gbogba stated the city was a partner in organizing the Community Forum on Race held last Saturday morning at the Community Activity Center. She stated 100 people attended and MN State Supreme Court Justice Ann McKee, first native American justice, was the guest speaker and it was a fabulous event.

She stated all families and community members were invited to the Robbinsdale Area School Annual State of the District Address on March 14, from 6:30 to 8:30 p.m., held at the Armstrong High School. She stated a small portion of the city was in the Robbinsdale Area School District.

She stated March 28 was the Brooklyn Park Community Assembly and the topics were Community Fire Service Plan and River Park Plan update.

ADJOURNMENT – With consensus of the Council, Mayor Lunde adjourned the meeting at 8:40 p.m.

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JEFFREY JONEAL LUNDE, MAYOR

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DEVIN MONTERO, CITY CLERK

# City of Brooklyn Park Request for Council Action

|                        |  |                                |   |
|------------------------|--|--------------------------------|---|
| <b>Agenda Item:</b>    | 4.4  | <b>Meeting Date:</b>           | October 28, 2019                                  |
| <b>Agenda Section:</b> | Consent  | <b>Originating Department:</b> | Finance   |
| <b>Resolution:</b>     | X  | <b>Prepared By:</b>            | Renée Manning<br>Senior Accountant                |
| <b>Ordinance:</b>      | N/A  |                                |   |
| <b>Attachments:</b>    | 1  | <b>Presented By:</b>           | Jeanette Boit-Kania<br>Assistant Finance Director |
| <b>Item:</b>           | Amend the 2019 General Fund Budget for the Administrative Fees Received for Host Approval of the Issuance of the Revenue Bonds for Hampton Senior Care Project, Series 2019B and from the Issuance of the Bonds 2019A and 2019B for the Amorce I Project |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_\_ TO AMEND THE 2019 GENERAL FUND FINANCE REVENUE BUDGET TO BE INCREASED BY \$112,125.

## Overview:

On May 28, 2019, the City of Brooklyn Park voted to allow the host approval of the issuance of its revenue bonds by the Public Finance Authority on behalf of the Hampton Senior Care of Brooklyn Park, LLC.

The City is charging a one-time host approval fee, \$40,875, per the city conduit fee policy of .50% of the principal of the bonds issued.

And, on July 22, 2019, the City of Brooklyn Park voted to approve the issuance, sale and delivery of its multifamily housing revenue bonds, multifamily housing revenue on behalf of Amorce I Limited Partnership.

The City is charging a one-time host approval fee, \$71,250, per the city conduit fee policy of .50% of the principal of the bonds issued.

The proposed amendment is to increase the 2019 General Fund budget revenue by the fee amount for these two transactions that total \$112,125.

## Budgetary/Fiscal Issues:

The recommended reallocation will increase the 2019 General Fund revenue budget by \$112,125.

## Attachments:

4.4A RESOLUTION

RESOLUTION #2019-

RESOLUTION TO AMEND THE 2019 GENERAL FUND  
FINANCE REVENUE BUDGET TO BE  
INCREASED BY \$112,125

WHEREAS, a budget amendment to the 2019 General Fund Budget will increase revenue by \$112,125; and

WHEREAS, the City is charging a fee per the city conduit fee policy of .50% of the principal of the bonds issued; Hampton Senior Housing Revenue Bonds Series 2019A, as approved on May 28, 2019 and Amorce I Limited Partnership Multifamily Housing Revenue Refunding Bonds and Note 2019A and 2019B as approved on July 22, 2019; and

WHEREAS, the amendment is increasing the revenue in the Finance Department for these fees.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to amend the 2019 General Fund, Finance Department revenue in the amount of \$112,125.

# City of Brooklyn Park Request for Council Action

|                        |  |                                |  |
|------------------------|--|--------------------------------|--|
| <b>Agenda Item:</b>    | 4.5  | <b>Meeting Date:</b>           | October 28, 2019                       |
| <b>Agenda Section:</b> | Consent  | <b>Originating Department:</b> | Community Development                  |
| <b>Resolution:</b>     | N/A  | <b>Prepared By:</b>            | JoAnn Millette, Development Specialist |
| <b>Ordinance:</b>      | N/A  |                                |  |
| <b>Attachments:</b>    | N/A  | <b>Presented By:</b>           | Cindy Sherman, Planning Director       |
| <b>Item:</b>           | Letters of Credit/Bond Releases, Escrow/Cash Bond Releases |                                |  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO RELEASE THE REMAINING ENGINEERING ESCROW (\$1,910.06) FOR FLYING DRAGON INFLATA WORLD, PROJECT #19-116 LOCATED AT 10351 XYLON AVE N, SUITE #18 FOR MAISEE & JERRY VANG. THIS PROJECT HAS BEEN WITHDRAWN.

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO RELEASE THE CASH BOND (\$64,700) AND THE ENGINEERING ESCROW (\$19,064.35) FOR SATISFACTORY COMPLETION OF THE "CAPSTONE QUADRANGLE BUILDING A & B" PROJECT #17-126 LOCATED AT 9301 AND 9315 WINNETKA AVE N FOR CQ BROOKLYN PARK LAND, LLC.

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO RELEASE THE CASH BOND (\$3,000) AND THE ENGINEERING ESCROW (\$1,000) FOR SATISFACTORY COMPLETION OF THE "MILL CITY CREDIT UNION" PROJECT #17-128 LOCATED AT 5941 94<sup>TH</sup> AVE N FOR MILL CITY CREDIT UNION.

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

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

**Attachments:** N/A

# City of Brooklyn Park Request for Council Action

|                        |   |                                |   |
|------------------------|---|--------------------------------|---|
| <b>Agenda Item:</b>    | 4.6   | <b>Meeting Date:</b>           | October 28, 2019                                    |
| <b>Agenda Section:</b> | Consent   | <b>Originating Department:</b> | Community Development                               |
| <b>Resolution:</b>     | N/A   | <b>Prepared By:</b>            | Megan Bookey, Program Assistant III                 |
| <b>Ordinance:</b>      | N/A   |                                |   |
| <b>Attachments:</b>    | N/A   | <b>Presented By:</b>           | Keith Jullie, Rental and Business Licensing Manager |
| <b>Item:</b>           | Approve an On-Sale 3.2 Malt Liquor License for Midas Hospitality LLC dba Hampton Inn Brooklyn Park, 9470 West Broadway, Brooklyn Park |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO APPROVE AN ON-SALE 3.2 MALT LIQUOR LICENSE FOR MIDAS HOSPITALITY LLC DBA HAMPTON INN BROOKLYN PARK, 9470 WEST BROADWAY, BROOKLYN PARK.

## Overview:

This item is a new On-Sale 3.2 Percent Malt Liquor License for Midas Hospitality LLC dba Hampton Inn Brooklyn Park, 9470 West Broadway, Brooklyn Park.

This license, in conjunction with its On-Sale Wine License, will allow the business to sell strong beer (up to 14% alcohol). The On-Sale Wine License is scheduled for a public hearing and City Council consideration on October 28, 2019.

The Community Development Department approved the application on October 22, 2019. The Police Department has completed their investigation of the officers and hotel manager. This hotel was newly constructed in 2018 and holds a certificate of occupancy.

The Community Development Department, Fire Department and Police Department find no reason that would preclude the issuance of this license. Their reports are on file in the Business and Rental Licensing Division and are available upon request.

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

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

**Attachments:** N/A

# City of Brooklyn Park Request for Council Action

|                        |  |                                |   |
|------------------------|--|--------------------------------|---|
| <b>Agenda Item:</b>    | 4.7  | <b>Meeting Date:</b>           | October 28, 2019                            |
| <b>Agenda Section:</b> | Consent  | <b>Originating Department:</b> | Operations and Maintenance                  |
| <b>Resolution:</b>     | X  | <b>Prepared By:</b>            | Jon Watson, Public Utilities Superintendent |
| <b>Ordinance:</b>      | N/A  |                                |   |
| <b>Attachments:</b>    | 2  | <b>Presented By:</b>           | Dan Ruiz, Director                          |
| <b>Item:</b>           | Authorize Amending the Agreement with KLM Engineering Inc. for Engineering Services for the Noble Water Tower Rehabilitation Project |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ TO AUTHORIZE AMENDING THE AGREEMENT WITH KLM ENGINEERING INC. FOR ENGINEERING SERVICES FOR THE NOBLE WATER TOWER REHABILITATION PROJECT.

## Overview:

This request is for authorization to amend the existing agreement with KLM Engineering to continue inspection and validation engineering work on the Noble water tower repainting project. Work repainting the tower has progressed throughout the year; however, the project is behind schedule due to adverse weather conditions and methods attempted by the contractor. The inspection work performed by KLM Engineering is especially important given this situation. Inspection duties include monitoring and documentation of the weather conditions as it relates to surface preparation and application of paint coatings. It also includes identifying work that was not done according to specifications and making the contractor correct the work.

The proposed additional work amounts to an addition of \$65,000.00 to KLM's contract. This inspection staff time is essential to ensure the project is completed correctly. KLM Engineering is an experienced municipal engineering firm that does work for the public sector. They specialize in the water reservoir and paint coating related engineering work.

## Primary issues/alternatives to consider:

- Should the agreement be approved?  
Staff recommends approval of the agreement because it is necessary to continue diligent inspection and validation of the project.
- The Council has the following alternatives to consider:
  1. Approve the agreement as recommended
  2. Reject the agreement amendment and reduce the cost of proposed agreement

## Budgetary/Fiscal Issues:

The estimated cost of additional project inspection work was originally estimated to be \$85,000, but staff has identified ways to reduce the cost to \$65,000.00; therefore, the overall total fee will be \$145,000.00. This amounts to a ratio of 10% of the cost for the tower rehabilitation project, which is consistent with other construction projects like this. Every effort will be made to recoup these additional costs by charging liquidated damages onto the contract with the general contractor, TMI Coatings. These engineering costs can be accommodated in the 2019-2020 Water Utility Fund budget.

## Attachments:

- 4.7A RESOLUTION
- 4.7B PROPOSED AGREEMENT AMENDMENT

RESOLUTION #2019-

RESOLUTION TO AUTHORIZE AMENDING THE AGREEMENT  
WITH KLM ENGINEERING INC. FOR ENGINEERING SERVICES  
FOR THE NOBLE WATER TOWER REHABILITATION PROJECT

WHEREAS, it is important to keep the utility system at a good level of service; and

WHEREAS, the project was identified in the 2018-2022 Capital Improvement Plan as project #300118;  
and

WHEREAS, KLM Engineering Inc. was selected and conducts this type of engineering work; and

WHEREAS, the water tower rehabilitation project was authorized and underway; and

WHEREAS, the duration of the project is taking longer than expected; and

WHEREAS, KLM Engineering Inc. has submitted an agreement amendment proposal to the City for the additional engineering inspection work; and

WHEREAS, the recommended proposal can be accommodated in the 2019-2020 Water Utility Fund Budget.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to authorize the Mayor and City Manager to amend the agreement with KLM Engineering Inc. for engineering services for the additional work on the Noble Water Tower Rehabilitation Project in the amount of \$65,000.00.



# KLM ENGINEERING, INC.

1976 Wooddale Drive, Suite 4 | Woodbury, MN 55125  
Phone (651) 773-5111 | Fax (651) 773-5222

October 23, 2019

**By Email Only**

Mr. Jon Watson, P.E.  
Public Utilities Superintendent  
City Brooklyn Park  
5200 85th Avenue North  
Brooklyn Park, Minnesota 55443-4301

**RE: Proposal to Amend the Contract for Construction Management and Inspection Hours on the Noble Tower Reconditioning Project. KLM Project Number: MN3440**

Dear Mr. Watson:

Based on the production rates and time extension during the reconditioning of the Noble Tower, KLM is requesting additional hours that are required to perform quality assurance during surface preparation and coating application. This quality assurance is vital for a successful project to meet the city's expectations. KLM's goal is to protect the city's asset by delivering a product that will protect the tower for 20 plus years of service.

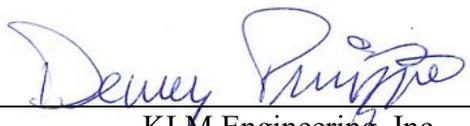
The estimated timeframe for completing this project is June 2020. This not to exceed free for additional services is \$65,000.00. This agreement, between the City of Brooklyn Park and KLM Engineering, Inc. of Woodbury, Minnesota is accepted by:

\_\_\_\_\_  
City of Brooklyn Park, Minnesota  
City Mayor

\_\_\_\_\_  
City of Brooklyn Park, Minnesota  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
KLM Engineering, Inc.  
VP of Business Development

\_\_\_\_\_  
October 23, 2019  
Date

# City of Brooklyn Park Request for Council Action

|                        |   |                                |  |
|------------------------|---|--------------------------------|--|
| <b>Agenda Item:</b>    | 4.8   | <b>Meeting Date:</b>           | October 28, 2019   |
| <b>Agenda Section:</b> | Consent   | <b>Originating Department:</b> | Recreation and Parks   |
| <b>Resolution:</b>     | X   | <b>Prepared By:</b>            | Jody Yungers,<br>Director, Recreation and Parks;<br>Jennifer Jordan, Senior Project<br>Manager |
| <b>Ordinance:</b>      | N/A   |                                |  |
| <b>Attachments:</b>    | 1   | <b>Presented By:</b>           | Jody Yungers, Director,<br>Recreation and Parks  |
| <b>Item:</b>           | Resolution Calling for a Public Hearing on the Vacating of Public Park (Fair Oaks Park) |                                |  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ CALLING FOR A PUBLIC HEARING FOR THE VACATING OF PUBLIC PARK LAND AND AUTHORIZING THE PUBLICATION OF A NOTICE OF THE HEARING FOR THE VACATING OF FAIR OAKS PARK LAND.

## Overview:

Staff has received a request from Excell Academy to acquire Fair Oaks Park at the southeast corner of Zane Avenue and Highway 694 for the expansion of its Charter School (see attached park map). The School is currently leasing the 6510 Zane building. The School Administration is currently in the process of trying to purchase the building from the owner with the intent to expand the building to accommodate current and future growth of the Charter School.

## Public Land Sale Process:

Section 14.06 of the City's Charter allows the sale of city-owned real property but requires that an ordinance be adopted by the City Council that authorizes the conveyance of the property. The City Council is also required to conduct a vacation proceeding with respect to the park. Section 14.07 of the City Charter states that the City Council may vacate "any public grounds," but states that vacation of public grounds cannot be made unless it is in the interest of the public to do so. Finally, pursuant to Minnesota Statutes Section 462.356, subdivision 2, the Planning Commission must review the sale of the property and report in writing to the City Council on its findings as to the compliance of the proposed sale with the City's Comprehensive Plan.

The Resolution merely sets the public hearing for the November 25, 2019 City Council meeting and authorizes the publication of the hearing notice related to the vacating of Fair Oaks Park land. On December 2, 2019, a Second Reading by City Council with proposed action will be taken.



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

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

**Attachments:**

4.8A RESOLUTION

RESOLUTION #2019-

RESOLUTION CALLING FOR A PUBLIC HEARING FOR THE VACATING OF PUBLIC PARK LAND  
AND AUTHORIZING THE PUBLICATION OF A NOTICE OF THE HEARING  
FOR THE VACATING OF FAIR OAKS PARK LAND

WHEREAS, the City of Brooklyn Park, Minnesota (the "City"), has received a proposal from Excell Academy for Higher Learning, Inc., a Minnesota Charter School and nonprofit corporation, as well as a tax-exempt 501(c)(3) organization (the "School"), and the School's affiliated building company, Friends of Excell Academy (the "Borrower") to purchase Fair Oaks city park; and

WHEREAS, Section 14.06 of the City's Charter allows the sale of city-owned real property but requires that an ordinance be adopted by the City Council that authorizes the conveyance of the property; and

WHEREAS, the City Council is required to conduct a vacation proceeding with respect to the park. Section 14.07 of the City Charter states that the City Council may vacate "any public grounds," but states that vacation of public grounds cannot be made unless it is in the interest of the public to do so; and

WHEREAS, the City has been advised that a public hearing will be held following reasonable public notice and City Council approval; and

WHEREAS, reasonable public notice is given no fewer than seven (7) days before the public hearing, in the form and manner required by Section 147(f) of the Code and applicable regulations, including by publication in a newspaper of general circulation available to residents of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park, Minnesota, as follows:

1. A public hearing on the proposal to vacate public park land (Fair Oaks Park) be held at the time and place set forth in the Notice of Public Hearing attached hereto as Exhibit A.
2. The City Manager is hereby authorized and directed to cause notice of the hearing to be given one publication in a newspaper of general circulation available in the City, not less than (7) seven days prior to the date fixed for the hearing, substantially in the form of the attached Notice of Public Hearing.

## EXHIBIT A

NOTICE OF PUBLIC HEARING FOR  
THE VACATING OF PUBLIC PARK LAND COMMONLY KNOWN AS FAIR OAKS PARK.

Notice is hereby given that the City Council of the City of Brooklyn Park, Minnesota (the "City") will meet in the Council Chambers at the City Hall, 5200 85<sup>th</sup> Avenue North in the City, at 7:00 p.m. on Monday, November 25 2019 to consider the proposed vacation of public park land commonly known as Fair Oaks Park, located South of Highway 694, East of Zane Avenue North, North of 65<sup>th</sup> Avenue North and West of Unity Avenue North and legally described as follows:

Real property in the City of Brooklyn Park, County of Hennepin, State of Minnesota, described as follows:

## Parcel 1:

That part of the Southeast Quarter of the Northwest Quarter, Section 33, Township 119, Range 21, Hennepin County, Minnesota, lying South of the South of the South right of way line of new State Highway No. 94 and lying West of a line described as follows:

Beginning at a point on the South line of said Southeast Quarter of the Northwest Quarter distant 545 feet West of as measured on said South line from the Southeast corner thereof; thence North parallel with the East line of said Southeast Quarter of the Northwest Quarter to its intersection with the said South right-of-way line of new State Highway No. 94 and there terminating.

That lies North of the South 818.77 feet of said Southeast Quarter of the Northwest Quarter and that lies Southeasterly of the following described line:

Commencing at a point on the Centerline of Zane Avenue North lying 465 feet South of the intersection of the centerlines of the East bound lane of Interstate No. 94 and Zane Avenue; thence East at a right angle to said centerline to the East right-of-way line of Zane Avenue; thence proceeding in a Northeasterly direction to a point on the Southerly right-of-way line of Interstate No. 94 lying Southerly and at a right angle the centerline of the East bound lane of Interstate No. 94 from a point lying 820 feet Easterly, as measured along said centerline from the intersection of the centerlines of the East bound lane of Interstate No. 94 and Zane Avenue, and there terminating.  
(Abstract Property)

## Parcel 2:

That part of the SE 1/4 of the NW 1/4 of Section 33, TWN 119, Range 21, commencing at a point; on the South line of Said SE 1/4 of NW 1/4, distant 545 feet; W from SE corner thereof, thence N parallel with the E line of said SE 1/4 of NW 1/4 a distance of 553.6 feet to point beginning of Tract of land to be described; thence continuing North parallel to said East line a distance of 266.65 feet, thence North 89° 27' 16" inches, West a distance of 438.11 feet thence South 65° 31' 43", West a distance of 243.10 feet to the East right of way line of Zane Avenue, thence South 1° 39' 48", West along said East right of way line a distance of 163.40 feet, thence South 89° 27' 16" East a distance of 677.62 feet to the beginning.

(Abstract Property)

## Parcel 3:

Outlot A, Brooklyn Park EDA Division 2, Hennepin County, Minnesota

At the time and place fixed for the public hearing, the City Council will give all persons who appear at the hearing an opportunity to express their views with respect to the proposed park vacation proposal. Written comments will be considered if submitted at the above City office on or before the date of the hearing.

# City of Brooklyn Park Request for Council Action

|                        |   |                                |  |
|------------------------|---|--------------------------------|--|
| <b>Agenda Item:</b>    | 5.1   | <b>Meeting Date:</b>           | October 28, 2019   |
| <b>Agenda Section:</b> | Public Hearings   | <b>Originating Department:</b> | Operations and Maintenance – Engineering Services Division |
| <b>Resolution:</b>     | X   | <b>Prepared By:</b>            | Jesse Struve,<br>P.E., City Engineer                       |
| <b>Ordinance:</b>      | NA  |                                |  |
| <b>Attachments:</b>    | 3   | <b>Presented By:</b>           | Jesse Struve   |
| <b>Item:</b>           | Public Hearing for Vacation of the Street Easement at 7516 Brooklyn Boulevard |                                |  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ VACATING THE STREET EASEMENT AT 7516 BROOKLYN BOULEVARD.

## Overview:

The Economic Development Authority (EDA) is in the process of selling the property at 7516 Brooklyn Boulevard and discovered there is an old street and utility easement on the back of the property. The EDA is requesting the street easement be vacated prior to the sale.

On September 23, 2019, the City Council adopted Resolution #2019-146 ordering a public hearing to be held on October 28, 2019 for Council's review of the proposed vacation of the street easement at 7516 Brooklyn Boulevard. Staff recommends the City Council vacate the street easement as requested.

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

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

## Attachments:

- 5.1A RESOLUTION
- 5.1B PETITION
- 5.1C PROPOSED EASEMENT VACATION AREA

RESOLUTION #2019-

RESOLUTION VACATING THE STREET EASEMENT  
AT 7516 BROOKLYN BOULEVARD

WHEREAS, Section 14.07 of the City Charter provides that the City Council may by resolution vacate any street, alley, public grounds, or public way, or any part thereof, when it appears in the interest of the public to do so; and

WHEREAS, the City of Brooklyn Park has a street easement over the following described land:

Parcel Description:

That part of W 230 ft of NE ¼ lying S of N 911 64/100 ft thereof and Nly of State Hwy No 152 ex road.

Easement Description:

That part of the West ½ of the NE ¼ of Section 28, Township 119, Range 21 described as follows: Commencing at a point 911.64 feet South of the Northwest corner of the NE ¼ of said Section 28, measured along the West line of said NE ¼; said point also being the Southwest corner of Block 5, Donnay's Brookdale Estates 5<sup>th</sup> Addition; thence East measured at right angles a distance of 130 feet to the actual point of beginning of the tract of land to be described, thence continuing East along said last described line, a distance of 100 feet, said last described line also being the South line of Block 5, and Lot 1, Block 6, said Donnay's Brookdale Estates 5<sup>th</sup> Addition; thence South at right angles parallel with the West line of said NE ¼, a distance of 30 feet, thence West at right angles parallel with said South line of Block 5, and Lot 1, Block 6, Donnay's Brookdale Estates 5<sup>th</sup> Addition, a distance of 100 feet to its intersection with a line parallel and 130 feet East of the West line of said NE ¼, thence North along said parallel line a distance of 30 feet to the point of beginning; all in Section 28, Township 119, North Range 21, West of the Fifth Principal Meridian.

WHEREAS, a public hearing was held on October 28, 2019 as required by law; and

WHEREAS, it has been determined that good area planning requires that this easement be vacated and that it would be in the public interest to do so.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park:

1. That the street easement over the above described property be vacated as requested by the petitioner.
2. A certified copy of this resolution shall be prepared by the City Clerk and shall be a notice of completion of the proceedings and shall be recorded in accordance with the provisions of Section 14.07 of Brooklyn Park City Charter.

**PETITION**

In the Matter of Vacation of certain easements as described below

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TO: **THE CITY COUNCIL OF BROOKLYN PARK, HENNEPIN COUNTY, STATE OF MINNESOTA**

**Brooklyn Park Economic Development Authority**

(Owner)

Hereby petitions the City Council of Brooklyn Park, pursuant to the provisions of Section 14.07 of the City Charter and applicable State Law to vacate:

**A premanent easement for street and utility purposes**

(Describe type of easement)

Located in said City and described as follows:

**Parcel Description:**

THAT PART OF W 230 FT OF NE 1/4  
LYING S OF N 911 64/100 FT THOF AND  
NLY OF STATE HWY NO 152 EX ROAD

**Easement Description:**

See attached document.

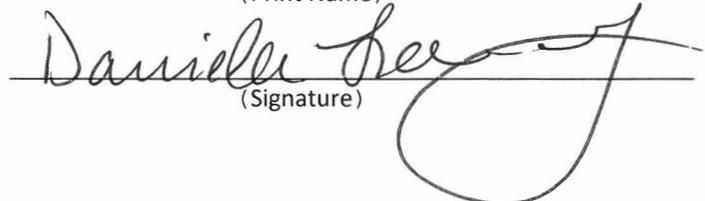
The portion of said easement sought to be vacated adjoins and abuts lands owned by said petitioners.

Date: 9/18/19

Petitioner:

Daniela Lorenz

(Print Name)

  
(Signature)

Parcel 4250 de  
Gen. Engrng.

404851

EASEMENT

THIS AGREEMENT made this 11<sup>th</sup> day of OCTOBER 1973,  
between Glen D. Anderson and Joyce R. Anderson, Husband and Wife

part ies of the first part, and THE CITY OF BROOKLYN PARK, a municipal  
corporation under the laws of the State of Minnesota party of the second  
part,

WITNESSETH: That the part ies of the first part in  
consideration of the sum of ONE DOLLAR AND OTHER GOOD AND VALUABLE  
CONSIDERATIONS to them in hand paid by said party of the second  
part, the receipt of which is hereby acknowledged, do  
hereby grant and convey unto the said party of the second part, its  
successors and assigns, a permanent easement for street & utility purposes  
over and across the tract or parcel of  
land lying and being in the County of Hennepin and State of Minnesota,  
described as follows, to wit:

That part of the West  $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Section 28, Township 119, Range 21  
described as follows: Commencing at a point 911.64 feet South of the North-  
west corner of the NE $\frac{1}{4}$  of said Section 28, measured along the West line of  
said NE $\frac{1}{4}$ ; said point also being the Southwest corner of Block 5, Donnay's  
Brookdale Estates 5th Addition; thence East measured at right angles a  
distance of 130 feet to the actual point of beginning of the tract of land  
to be described, thence continuing East along said last described line, a  
distance of 100 feet, said last described line also being the South line of  
Block 5, and Lot 1, Block 6, said Donnay's Brookdale Estates 5th Addition;  
thence South at right angles parallel with the West line of said NE $\frac{1}{4}$ , a  
distance of 30 feet, thence West at right angles parallel with said South  
line of Block 5, and Lot 1, Block 6, Donnay's Brookdale Estates 5th Addition,  
a distance of 100 feet to its intersection with a line parallel and 130 feet  
East of the West line of said NE $\frac{1}{4}$ , thence North along said parallel line a  
distance of 30 feet to the point of beginning; all in Section 28, Township  
119, North Range 21, West of the Fifth Principal Meridian.

TRANSFER ENTERED  
OCT 17 1973  
FINANCE DIVISION  
HENNEPIN COUNTY, MINN.  
BY [Signature]

IN TESTIMONY WHEREOF, the said part ies have  
hereunto set their hands the day and year  
first above written.

In the presence of:

[Signature]  
[Signature]  
Glen D. Anderson  
Joyce R. Anderson

STATE OF MINNESOTA  
COUNTY OF HENNEPIN SS

On this 11<sup>th</sup> day of OCTOBER 1973, before me a  
Notary Public within and for said County, personally appeared  
Glen D. Anderson and Joyce R. Anderson, Husband and Wife  
to me known to be the persons described in and who executed the  
foregoing instrument and acknowledged that the y  
executed the same as their free act and deed.

THIS INSTRUMENT DRAFTED BY:

[Signature]

Neil Johnson  
5800 85th Avenue North  
Brooklyn Park, Minnesota 55443  
Phone: 425-4502

LOIS BRODKORB  
NOTARY PUBLIC - MINNESOTA  
ANOKA COUNTY  
My Commission Expires Nov. 16, 1977

STATE DEED TAX DUE HEREON: NONE

650

100 Feet

Map Scale = 1: 1,200

- City Boundary
- Streets (by maint auth)
- City Street
- County Road
- Highway
- Other City
- Park Road
- Private Street
- City Background



This map is for general reference only. It is not for legal, engineering, or surveying use. Please contact the sources of the information if you desire more details.



# City of Brooklyn Park Request for Council Action

|                        |   |                                |  |
|------------------------|---|--------------------------------|--|
| <b>Agenda Item:</b>    | 5.2   | <b>Meeting Date:</b>           | October 28, 2019                               |
| <b>Agenda Section:</b> | Public Hearings   | <b>Originating Department:</b> | Finance  |
| <b>Resolution:</b>     | X   | <b>Prepared By:</b>            | Jeanette Boit-Kania,<br>Asst. Finance Director |
| <b>Ordinance:</b>      | N/A   |                                |  |
| <b>Attachments:</b>    | 2   | <b>Presented By:</b>           | LaTonia Green,<br>Finance Director             |
| <b>Item:</b>           | Public Hearing on a Proposal for the Issuance of Charter School Lease Revenue Bonds (Excell Academy Project); Consideration of Resolution |                                |  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ CONSENTING TO AND PROVIDING HOST APPROVAL TO THE ISSUANCE BY THE CITY OF SPRING LAKE PARK, MINNESOTA OF ITS CHARTER SCHOOL LEASE REVENUE BONDS (EXCELL ACADEMY FOR HIGHER LEARNING PROJECT), SERIES 2019A AND SERIES 2019B, FOR THE BENEFIT OF FRIENDS OF EXCELL ACADEMY.

## Overview:

The City has received a proposal from Excell Academy, which is planning to expand their charter school in Brooklyn Park (the "Project"), that the City of Spring Lake Park, Minnesota issue conduit revenue bonds (the "Bonds") to finance the Project. With the Project being located in Brooklyn Park, the City is required under federal tax law to hold a public hearing on the issuance of the Bonds and adopt a resolution providing their consent to the issuance of the Bonds by the City of Spring Lake Park for the benefit of Excell Academy.

Normally, the City would be willing to issue these revenue bonds, but due to our recent bond sale (which bonds were issued as bank-qualified bonds), we are not eligible to pursue these at this time without jeopardizing the bank-qualified status of such bonds.

Excell Academy would like to pursue financing for the purchase and expansion of their facility and have reached an agreement with the City of Spring Lake Park to issue the Bonds. There is no liability related to this financing for Brooklyn Park or the City of Spring Lake Park, as they are considered conduit debt under State Law.

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

## Budgetary/Fiscal Issues:

The Bonds being requested are limited to a maximum amount of \$14,500,000. Upon issuance and closing of the conduit revenue obligations, the City will receive an administrative fee of 0.50% of the principal amount of the conduit revenue obligations being issued.

## Attachments:

- 5.2A RESOLUTION
- 5.2B RESOLUTION #2019-160 – PUBLIC HEARING NOTICE

RESOLUTION #2019-

RESOLUTION CONSENTING TO AND PROVIDING HOST APPROVAL TO THE ISSUANCE  
BY THE CITY OF SPRING LAKE PARK, MINNESOTA OF ITS CHARTER SCHOOL LEASE REVENUE  
BONDS (EXCELL ACADEMY FOR HIGHER LEARNING PROJECT), SERIES 2019A AND SERIES 2019B,  
FOR THE BENEFIT OF FRIENDS OF EXCELL ACADEMY

BE IT RESOLVED by the City Council (the "Council") of the City of Brooklyn Park, Minnesota (the "City"),  
as follows:

WHEREAS, Friends of Excell Academy, a Minnesota nonprofit corporation (the "Borrower"), has proposed the following project (the "Project"): (i) the financing of the acquisition, construction, renovation, expansion and equipping of an approximately 53,000 square foot public (charter) school facility (the "Facility") located at 6510 Zane Avenue North in the City, which Facility will serve students in grades pre-kindergarten through 8; and (ii) the purchase of approximately 4.37 acres of parkland from the City, identified as Fair Oaks School Park, located at 6600 Zane Avenue North in the City, immediately adjacent to the Facility; and

WHEREAS, the Borrower has requested that the City of Spring Lake Park, Minnesota (the "Issuer") issue its revenue bonds, in one or more series, as tax-exempt and taxable obligations, more specifically referred to as the Issuer's Charter School Lease Revenue Bonds (Excell Academy for Higher Learning Project), Series 2019A, and Taxable Charter School Lease Revenue Bonds (Excell Academy for Higher Learning Project), Series 2019B (collectively, the "Bonds"), to be issued in the original combined aggregate principal amount of \$14,500,000, all pursuant to the provisions of Minnesota Statutes, Sections 469.152 through 469.165, as amended (the "Act"); and

WHEREAS, the proceeds of the Bonds will be used to finance the Project, as well as the funding of a debt service reserve fund for the Bonds and paying the costs of issuance of the Bonds; and

WHEREAS, the Facility will be owned by the Borrower and leased to and operated by Excell Academy for Higher Learning, Inc. (the "School"), a public charter school, Minnesota nonprofit corporation and tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, it is proposed the Project will be owned by the Borrower and leased to and operated by Excell Academy for Higher Learning, Inc. (the "School"), a public charter school, Minnesota nonprofit corporation and tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, on October 21, 2019, the City Council of the Issuer held a public hearing under Section 147(f) of the Code and associated U.S. Treasury Regulations and Section 469.154, Subdivision 4 of the Act and after the public hearing approved Resolution No. 19-37, authorizing the issuance of the Bonds; and

WHEREAS, Section 147(f) of the Code and U.S. Treasury Regulations promulgated thereunder require that prior to the issuance of the Bonds, this Council consent to the issuance of the Bonds by the Issuer after conducting a public hearing thereon, preceded by publication of a notice of public hearing (in the form required by Section 147(f) of the Code and applicable U.S. Treasury Regulations) in a newspaper of general circulation within the City, published at least seven days prior to the public hearing date; and

WHEREAS, at a regular meeting on October 14, 2019, this Council adopted a resolution calling for a public hearing on "host approval" of the issuance of the Bonds for the Project; and

WHEREAS, a notice of public hearing on the issuance of the Bonds was published on October 17, 2019 in the *Sun Post*, the City's official newspaper; and

WHEREAS, on the date hereof this Council conducted a public hearing, at which a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing, on providing consent to the issuance of the Bonds by the Issuer pursuant to the requirements of Section 147(f) of the Code and U.S. Treasury Regulations promulgated thereunder.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park, Minnesota, as follows:

1. Host Approval. This Council finds that it is in the best interest of the City to consent to the issuance of the Bonds by the Issuer to finance the Project, as well as to establish a debt service reserve fund for the Bonds, and to pay costs of issuance for the Bonds. It is the purpose and intent of this Council that this Resolution constitute consent and approval by the City of the issuance of the Bonds, as the governmental unit having jurisdiction over the area in which the Project is located, in accordance with Section 147(f) of the Code and U.S. Treasury Regulations promulgated thereunder. Additionally, this Resolution constitutes consent to issuance of the Bonds by the Issuer pursuant to Minnesota Statutes, Section 471.656, Subdivision 2(2).

2. Certifications and Records. The Mayor and the City Manager and the other officers, employees, and agents of the City are authorized and directed to prepare and furnish to the Issuer, Best & Flanagan LLP, as bond counsel with respect to the Bonds, and the original purchaser of the Bonds certified copies of all proceedings and records of the City relating to the consent and approval of the issuance of the Bonds, including a certification of this Resolution.

3. Further Proceedings. The Mayor and the City Manager are authorized and directed to execute and deliver any documents deemed necessary to fulfill the intentions of this Resolution.

4. Borrower Reimbursement. The Borrower will, upon demand from the City, reimburse the City for costs paid or incurred by the City in connection with this Resolution. In addition, the Borrower shall at all times be in compliance with the City's Conduit Debt Financing policy, including the payment of all fees due to the City.

RESOLUTION #2019-160

RESOLUTION CALLING FOR A PUBLIC HEARING ON HOST APPROVAL FOR  
THE ISSUANCE OF CHARTER SCHOOL LEASE REVENUE BONDS AND  
AUTHORIZING THE PUBLICATION OF A NOTICE OF THE HEARING  
(EXCELL ACADEMY FOR HIGHER LEARNING PROJECT)

WHEREAS, Minnesota Statutes, Sections 469.152 through 469.1655, as amended, relating to municipal industrial development (the “Act”), gives municipalities the power to issue revenue obligations for the purpose of promoting the welfare of the state by the active attraction and encouragement and development of economically sound industry and commerce to prevent so far as possible the emergence of blighted and marginal lands and areas of chronic unemployment; and

WHEREAS, the City of Brooklyn Park, Minnesota (the “City”), has received a proposal from Excell Academy for Higher Learning, Inc., a Minnesota Charter School and nonprofit corporation, as well as a tax-exempt 501(c)(3) organization (the “School”), and the School’s affiliated building company, Friends of Excell Academy (the “Borrower”), that the City of Spring Lake Park, Minnesota undertake a program to assist in financing, among other things, a Project described in Exhibit A, which is located in the City, through the issuance of revenue bonds or other obligations (in one or more series) (the “Bonds”) pursuant to the Act; and

WHEREAS, the City has been advised that a public hearing following reasonable public notice and City Council host approval of the financing of the Project is required under Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), and Treasury Regulations promulgated thereunder, because the facilities to be financed by the Bonds are located in the City; and

WHEREAS, reasonable public notice is notice that is given no fewer than seven (7) days before the public hearing, in the form and manner required by Section 147(f) of the Code and applicable regulations, including by publication in a newspaper of general circulation available to residents of the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park, Minnesota, as follows:

1. A public hearing on the proposal of the Borrower and the School will be held at the time and place set forth in the Notice of Public Hearing attached hereto as Exhibit A.
2. The City Manager is hereby authorized and directed to cause notice of the hearing to be given one publication in a newspaper of general circulation available in the City, not less than (7) seven days prior to the date fixed for the hearing, substantially in the form of the attached Notice of Public Hearing.

The foregoing resolution was introduced by Mayor Lunde and duly seconded by Council Member Jacobson.

The following voted in favor of the resolution: Pha, Parks, Mata, Jacobson, and Lunde.

The following voted against: None.

The following was absent: West-Hafner, Russell.

Where upon the resolution was adopted.

ADOPTED: October 14, 2019

JEFFREY JONEAL LUNDE, MAYOR

CERTIFICATE

STATE OF MINNESOTA  
COUNTY OF HENNEPIN  
CITY OF BROOKLYN PARK

I, the undersigned, being the duly qualified City Clerk of the City of Brooklyn Park, Minnesota, hereby certify that the above resolution is a true and correct copy of the resolution as adopted by the City Council of the City of Brooklyn Park on October 14, 2019.

WITNESS my hand officially as such Clerk and the corporate seal of the City this 15<sup>th</sup> day of October 2019.

DEVIN MONTERO, CITY CLERK

(SEAL)

## EXHIBIT A

NOTICE OF PUBLIC HEARING  
ON THE ISSUANCE OF CHARTER SCHOOL LEASE REVENUE BONDS  
FOR THE EXCELL ACADEMY FOR HIGHER LEARNING PROJECT

Notice is hereby given that the City Council of the City of Brooklyn Park, Minnesota (the "City") will meet in the Council Chambers at the City Hall, 5200 85<sup>th</sup> Avenue North in the City, at 7:00 p.m. on Monday, October 28, 2019 to consider giving host approval to the issuance by the City of Spring Lake Park, Minnesota (the "Issuer") of revenue bonds, in one or more series (the "Bonds"), under Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the "Act"), in order to finance the cost of a project located in the City.

Friends of Excell Academy, a Minnesota nonprofit corporation and tax-exempt 501(c)(3) organization (the "Borrower"), proposes to receive proceeds of the Bonds from the Issuer to finance the following project (the "Project"): (i) acquisition, construction, renovation, expansion and equipping of an approximately 53,000 square foot facility, located at 6510 Zane Avenue North in the City, to be used as a charter school facility for grades pre-kindergarten through 8 (the "Facility"), to be owned by the Borrower and leased to and operated by Excell Academy for Higher Learning, Inc., a public charter school, Minnesota nonprofit corporation and tax-exempt 501(c)(3) organization (the "School"); (ii) purchase of approximately 4.37 acres of parkland from the City, identified as Fair Oaks School Park, located at 6600 Zane Avenue North in the City, immediately adjacent to the Facility; (iii) fund a debt service reserve fund for the Bonds; and (iv) pay costs of issuing the Bonds.

The maximum estimated principal amount of the Bonds to be issued to finance the Project is \$14,500,000.

The Bonds or other obligations, as and when issued, will not constitute a charge, lien or encumbrance upon any property of the City or the Issuer and such obligation will not be a charge against the general credit or taxing powers of the City or the Issuer but will be payable from sums to be paid by the Borrower pursuant to a revenue agreement.

At the time and place fixed for the public hearing, the City Council will give all persons who appear at the hearing an opportunity to express their views with respect to the proposal. Written comments will be considered if submitted at the above City office on or before the date of the hearing.

# City of Brooklyn Park Request for Council Action

|                        |   |                                |  |
|------------------------|---|--------------------------------|--|
| <b>Agenda Item:</b>    | 5.3   | <b>Meeting Date:</b>           | October 28, 2019   |
| <b>Agenda Section:</b> | Public Hearings   | <b>Originating Department:</b> | Operations and Maintenance – Engineering Services Division |
| <b>Resolution:</b>     | N/A   | <b>Prepared By:</b>            | Mitch Robinson, Water Resources Engineer                   |
| <b>Ordinance:</b>      | N/A   |                                |  |
| <b>Attachments:</b>    | N/A   | <b>Presented By:</b>           | Mitch Robinson   |
| <b>Item:</b>           | Public Hearing for the Stormwater Pollution Prevention Plan (SWPPP) |                                |  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO REVIEW THE CITY OF BROOKLYN PARK'S STORMWATER POLLUTION PREVENTION PLAN (SWPPP) AND RECEIVE PUBLIC COMMENTS.

## Overview:

The Stormwater Pollution Prevention Plan (SWPPP) is a document required by the state and federal government that outlines how the city will work toward reducing pollution in rainwater runoff. There will be a presentation that outlines the plan requirements, and time will be allowed for the public to make comments. These comments will be recorded and addressed in the final SWPPP report that will be submitted in June 2020.

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

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

**Attachments:** N/A

# City of Brooklyn Park Request for Council Action

|                        |   |                                |   |
|------------------------|---|--------------------------------|---|
| <b>Agenda Item:</b>    | 5.4   | <b>Meeting Date:</b>           | October 28, 2019                                    |
| <b>Agenda Section:</b> | Public Hearings   | <b>Originating Department:</b> | Community Development                               |
| <b>Resolution:</b>     | N/A   | <b>Prepared By:</b>            | Megan Bookey, Program Assistant III                 |
| <b>Ordinance:</b>      | N/A   |                                |   |
| <b>Attachments:</b>    | N/A   | <b>Presented By:</b>           | Keith Jullie, Rental and Business Licensing Manager |
| <b>Item:</b>           | Approve an On-Sale Intoxicating Wine License for Midas Hospitality LLC dba Hampton Inn Brooklyn Park, 9470 West Broadway, Brooklyn Park |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO APPROVE AN ON-SALE INTOXICATING WINE LICENSE FOR MIDAS HOSPITALITY LLC DBA HAMPTON INN BROOKLYN PARK, 9470 WEST BROADWAY, BROOKLYN PARK.

## Overview:

This item is a public hearing to approve an on-sale intoxicating wine license for Midas Hospitality LLC dba Hampton Inn Brooklyn Park, 9470 West Broadway, Brooklyn Park.

This license, in conjunction with its new on-sale 3.2 percent malt liquor license, will allow the business to sell strong beer (up to 14% alcohol). The 3.2 license is on the City Council Consent agenda for October 28, 2019.

The Community Development Department approved the application on October 22, 2019. The Police Department has completed their investigation of the officers and hotel manager. This hotel was newly constructed in 2018 and holds a certificate of occupancy.

The Community Development Department, Fire Department and Police Department find no reason that would preclude the issuance of this license. Their reports are on file in the Business and Rental Licensing Division and are available upon request.

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

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

**Attachments:** N/A

# City of Brooklyn Park Request for Council Action

|                        |   |                                |                                  |
|------------------------|---|--------------------------------|----------------------------------|
| <b>Agenda Item:</b>    | 6.1   | <b>Meeting Date:</b>           | October 28, 2019                 |
| <b>Agenda Section:</b> | Land Use Actions  | <b>Originating Department:</b> | Community Development            |
| <b>Resolution:</b>     | X   | <b>Prepared By:</b>            | Todd A. Larson, Senior Planner   |
| <b>Ordinance:</b>      | N/A   |                                |                                  |
| <b>Attachments:</b>    | 6   | <b>Presented By:</b>           | Cindy Sherman, Planning Director |
| <b>Item:</b>           | Fix Auto of Brooklyn Park (American Auto Body) – Conditional Use Permit for an Auto Body Repair Facility at 8832 Zealand Avenue North |                                |                                  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_\_ APPROVING A CONDITIONAL USE PERMIT FOR AN AUTO BODY REPAIR BUSINESS AT 8832 ZEALAND AVENUE NORTH.

## Planning Commission Recommendation:

At its meeting on October 9, 2019, the Planning Commission unanimously (9-0) recommended approval of the conditional use permit (CUP) with the conditions that are included in the attached resolution.

## Overview:

American Auto Body is an established business located at 8208 Lakeland Avenue. The owner would like to open a satellite facility for auto body repair at 8832 Zealand Avenue, about a mile to the north. This facility would take vehicles from the Lakeland facility for repair and then bring them back to the Lakeland facility to return to the customers. The proposed Zealand facility typically would not be visited by customers. The proposed site was previously used as an auto repair shop, so the building is well-suited for this use. The previous occupant was not using the building for auto repair and the old CUP has long since expired. A new CUP is required.

Similar to other recent auto repair facilities, staff is recommending that no vehicles are parked outside while the business is closed. This condition helps protect the customers' vehicles from theft, as auto repair shops are easy targets for thieves, but it will also prevent the site from becoming a salvage yard. There is a small parking lot out front for employees and customers and a parking lot in the back accessed via a shared driveway to Xylon Avenue.

On the front of the building, there is one old non-conforming light fixture that will need to be changed to a conforming downcast light.

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

## Alternatives to consider:

1. Approve the CUP as recommended by the Planning Commission.
2. Approve the CUP with modifications.
3. Deny the CUP based on certain findings.

## Attachments:

- 6.1A RESOLUTION
- 6.1B LOCATION MAP
- 6.1C PLANNING AND ZONING INFORMATION
- 6.1D PLANNING COMMISSION MINUTES
- 6.1E APPLICANT'S NARRATIVE
- 6.1F PLANS

RESOLUTION #2019-

RESOLUTION APPROVING A CONDITIONAL USE PERMIT  
FOR AN AUTO BODY REPAIR BUSINESS AT 8832 ZEALAND AVENUE NORTH

Planning Commission File #19-121

WHEREAS, Mr. Matthew Feehan, of Fix Auto of Brooklyn Park, has made application for a Conditional Use Permit under the provisions of Chapter 152 of the City Code on property legally described as:

*Lot 7, Block 2, Aurora Technical Park, Hennepin County, Minnesota.*

WHEREAS, the matter has been referred to the Planning Commission who have given their advice and recommendation to the City Council; and

WHEREAS, the effect of the proposed use upon the health, safety and welfare of surrounding lands, existing and anticipated traffic conditions and its effect on properties in the neighborhood have been considered.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that a Conditional Use Permit is hereby granted for auto repair subject to the following:

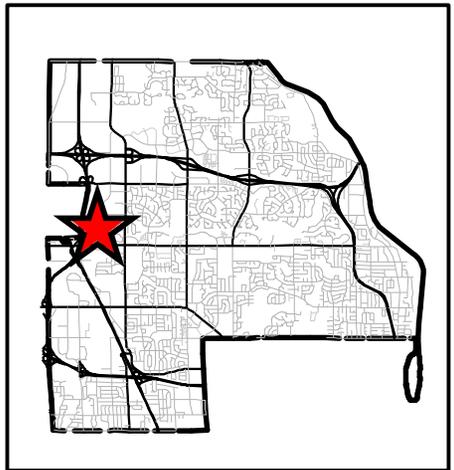
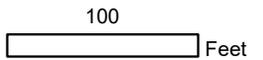
1. This Conditional Use Permit is valid for auto body work and other common auto repairs.
2. All vehicles parked outside must be parked in a striped parking space, operable, and properly licensed.
3. No customer vehicles may be parked outdoors outside of business hours.
4. All existing non-conforming building-mounted lighting must be replaced with a down-cast/full cut-off style light fixture.
5. Car carriers, transporters, and other service or support vehicles must not park on Zealand Avenue or Xylon Avenue. All services must be conducted on-site.
6. Customer vehicles must not be parked on any street.
7. A building permit is required for any remodeling work to the building.

This Conditional Use Permit is good for one year following the date of approval unless all conditions listed herein are followed. This resolution must be recorded with the Hennepin County Recorder's office.

**Conditional Use Permit #19-121   Fix Auto  
8832 Zealand Ave N**



Spring 2018 Air Photo.



Map Date September 20, 2019

|                         |  |
|-------------------------|--|
| Land Use Plan           | Business Park  |
| Current Zoning          | Business Park (BP)   |
| Surrounding Zoning      | All Sides – Business Park (BP)   |
| Neighborhood            | Commerce   |
| Lot Area                | 0.49 acres   |
| Building Area           | 6,161 ft <sup>2</sup>  |
| Conforms to:            |  |
| Land Use Plan – Yes     |  |
| Zoning Code – Yes       |  |
| Variances Needed – None |  |
| Public Notification     | 25 Mailed Notices<br>Sun-Post Legal Notices<br>Proposed Development Sign |

**Planning Commission Minutes  
Regular Meeting – Wednesday, October 9, 2019**

**1. CALL TO ORDER**

The meeting was called to order at 7:05 PM.

**2. ROLL CALL/PLEDGE OF ALLEGIANCE**

Those present were: Commissioners Hanson, Herbers, Husain, Kiekow, Mersereau, Mohamed; Council Liaison West-Hafner; Senior City Planner Larson; Planning Director Sherman.

Those not present were: Commissioners Kisch, Morton-Spears, and Vosberg.

**6. PUBLIC HEARING**

**A. “Fix Auto of Brooklyn Park” (American Auto Body) – Conditional Use Permit #19-121 for an auto body repair facility at 8832 Zealand Ave N.**

Senior Planner Larson introduced the application for American Auto Body that has been in business off Lakeland Ave for several years. He explained the business is doing so well that the applicant is looking for a secondary site for employees to complete car repairs. Customers will still drop their car off at the Lakeland Ave location, be moved to the Zealand Ave site, and then returned to the Lakeland Ave location to be returned to the customer. He noted the building has been utilized as an auto repair shop, but more recently was used by a concrete and flooring business. He added that recently approved auto repair shops have a condition of no overnight parking to prevent theft as well as control inventory to prevent the location from turning into a salvage yard. The applicant anticipates 2 to 3 shifts operating at this site, so instead of no overnight parking, the condition states there is no parking when the business is not operational. He pointed to a single light on the front of the building that needs to be replaced with a downcast light per city code as another condition of approval. Staff recommends approval.

Commissioner Chair Hanson opened the public hearing.

Seeing no one approach the podium, Commission Chair Hanson closed the public hearing.

Commissioner Mersereau congratulated the applicant for the success of their business.

Commissioner Mohamed referred to a letter from the attorney that asked if cars could be parked outside of the building in the evenings. He asked if this was explicitly covered in the Conditional Use Permit.

Senior Planner Larson answered yes, it was addressed in condition #3 of the draft resolution.

**MOTION HANSON, SECOND HERBERS TO RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT #19-121 FOR AN AUTO BODY REPAIR BUSINESS AT 8832 ZEALAND AVENUE NORTH, SUBJECT TO CONDITIONS IN THE DRAFT RESOLUTION.**

***MOTION CARRIED UNANIMOUSLY.***

Planning Director Sherman announced that the agenda items are scheduled to go to City Council on October 28, 2019.



September 3, 2019

City of Brooklyn Park  
Attn: Todd Larson, Senior Planner  
Community Development Department - Planning Division  
5200 85<sup>th</sup> Avenue North  
Brooklyn Park, MN 55443

**Re: Conditional Use Permit Application for Autobody Repair  
8832 Zealand Ave N, Brooklyn Park, MN 55445**

Dear Mr. Larson,

This firm represents Matt Feehan and American Auto Body of Osseo, Inc. now doing business as Fix Auto of Brooklyn Park. Mr. Feehan submits this letter as part of his application for a Conditional Use Permit to operate an autobody repair facility at 8832 Zealand Ave N, Brooklyn Park, MN 55445.

James Feehan (Matthew's Father) began American Auto Body in October of 1980 as a full-service auto body repair business in Osseo, Minnesota. In 1993, American Auto Body moved its place of business to its current location 8208 Lakeland Ave N, Brooklyn Park. In January of 2018, American Auto Body expanded its capacity and improved its efficiency by opening a state-of-the-art satellite auto body repair facility in Osseo. In July of this year, American Auto Body rebranded itself as Fix Auto of Brooklyn Park. Because of Mr. Feehan's effective management and quality service, Fix Auto is again in need of additional space to service vehicles.

The property located at 8832 Zealand Ave N is zoned Business Park. Within the Business Park zone, auto repair related services are a permitted conditional use. Mr. Feehan's business model focuses on high quality service and a quick turn-around time on auto body repair. Mr. Feehan intends to use this new location as another axillary repair facility. As such, only employees will be on site, customers will continue to utilize the Lakeland Ave facility for vehicle drop-off and pick-up. All auto body work will be performed within the building.

To accomplish this quick-turn around and high volume, Mr. Feehan regularly operates two shifts of repair operations, and during peak demand often operates three shifts. While Mr. Feehan intends to abide by the City's restrictions of no over-night parking, he requests that vehicles be allowed to park outside the building during the evenings while shifts are operating at the facility. This will facilitate the work-flow as vehicles are brought from the Lakeland Ave facility to the Zealand Ave facility which will then be moved into the building for repair during that shift.

This facility has previously been used as an auto body repair shop. The City of Brooklyn Park granted a Conditional Use Permit to Lynbrook Auto Body Shop in 1987. Mr. Feehan does not plan on expanding the building or modifying the site for his intended use. However, he is prepared to make internal modifications to the building to bring it into code compliance.

Mr. Larson  
September 3, 2019  
Page 2

Sincerely,

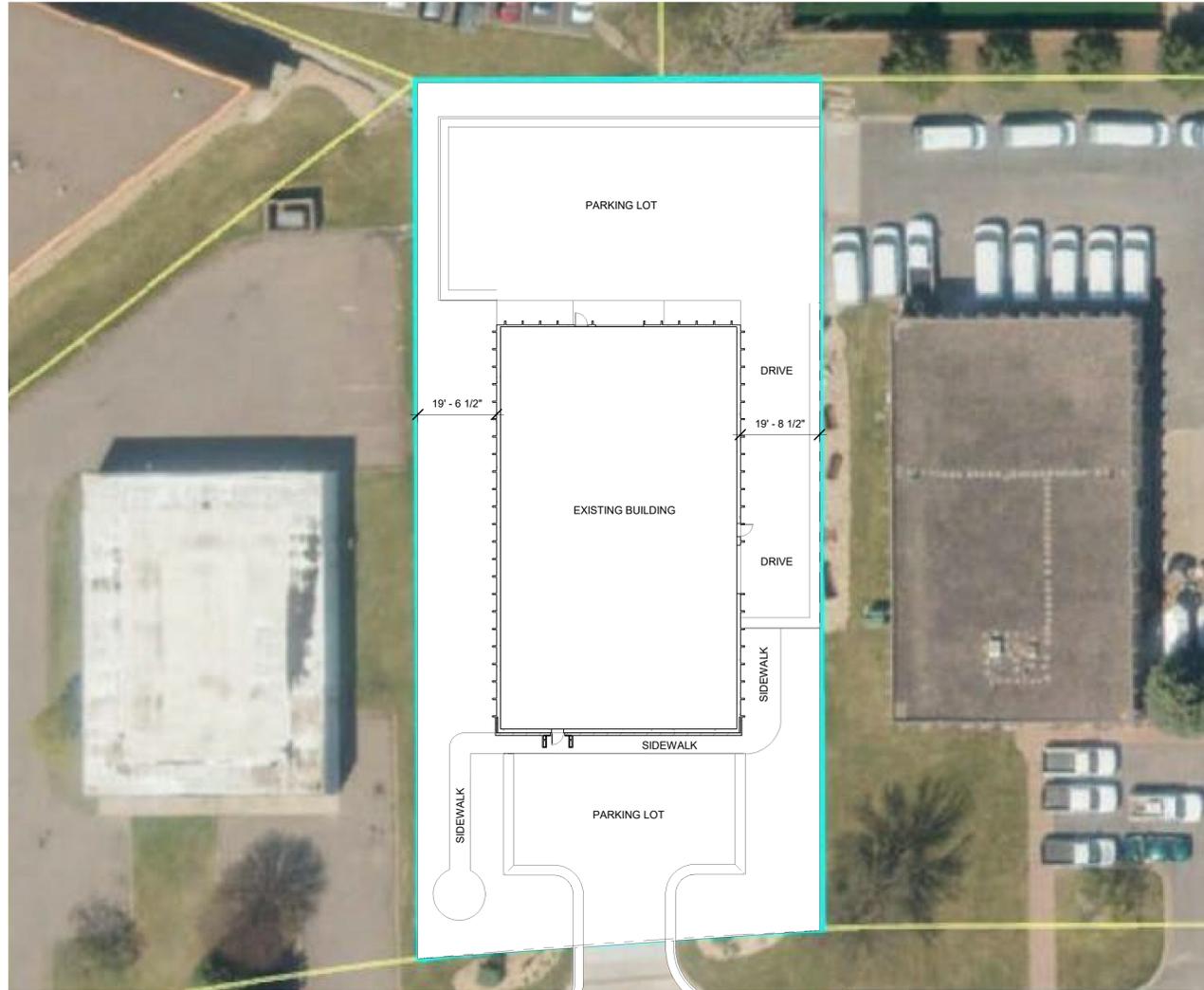
**LACROIX LAW, PLLC**

A handwritten signature in blue ink, appearing to read "Timothy M. LaCroix", with a long, sweeping flourish extending to the right.

Timothy M. LaCroix  
*Attorney at Law*

Encl.

cc: Matthew Feehan



1 Site  
1" = 20'-0"



**PROPERTY INFORMATION**

8832 Zealand Ave N  
Minneapolis MN 55445

Property ID:

1811921420025

Legal Description:

Lot 007 Block 002  
Aurora Technical Park

Acres: .48



| Project Description  |                              |  |           |                       |
|--|------------------------------|--|-----------|-----------------------|
| Existing Commercial Factory/ Storage Building with Precast Exterior Shell Construction. There are some CMU load bearing wall with precast Plank with a Mezzanine. There are additionally non-load bearing interior walls assumed to be metal stud framed. Therefore it appears this building is Type II Construction. This documentation is for a Conditional Use Permit with No Work. |                              |  |           |                       |
| Applicable Codes   |                              |  |           |                       |
| 2015 MN State Building Codes Amending and Adopting 2012 International Building Code<br>2015 MN State Accessibility Code MN Chapter 1341<br>2015 MN State Plumbing Code MN Rules Chapter 4714<br>2015 MN State Mechanical Code MN Rules Chapter 1436 Adopting:<br>2012 International Fuel Gas Code<br>2012 International Mechanical Code<br>2012 International Fire Code                |                              |  |           |                       |
| Construction Type  | Type V-A                     | Combustible, Unprotected   |           |                       |
| Building Elements Fire Resistance Rating- Table 601  |                              | # Hours  |           |                       |
| Primary Structural Frame   |                              | 0  |           |                       |
| Bearing Walls-   | Exterior                     | 0  |           |                       |
|  | Interior                     | 0  |           |                       |
| Non-bearing Walls  | Exterior (Table 602) 10-X<30 | 0  |           |                       |
|  | Interior                     | 0  |           |                       |
| Floor Construction- Secondary Members  |                              | 0  |           |                       |
| Roof Construction- Secondary Members   |                              | 0  |           |                       |
| Fire Protection- Sprinklered?  |                              | Existing- YES  |           |                       |
| Occupancy Group  |                              | S-1 Moderate Hazard Storage  |           |                       |
| Building Heights and Areas (Table 503)   |                              |  |           |                       |
| ALLOWABLE  | AREA                         | FLOORS   | INCREASE  | TOTAL                 |
| S-1  | 17,500 sf                    | 2  | 35,000 sf | 52,500 sf             |
| ACTUAL   |                              |  |           |                       |
| S-1  | 6,161 sf                     | 1  |           | 6,161 sf              |
| Mezzanine  | 954 sf                       | 505.2' ...shall not contribute to either the building area or the number of stories as regulated by Section 503.1. The area of the Mezzanine shall be included in determining the fire area... |           |                       |
| TOTAL  |                              | 1  |           | 6,161 sf              |
| Occupant Loads Table 1004.1.2  |                              |  |           |                       |
| Maximum Floor Area Allowances per Occupant   |                              | Area Occupants   |           |                       |
| Space Function   | Ratio Area/Occupant          | Area   | Occupants |                       |
| Industrial Areas   |                              |  |           |                       |
| Auto Repair S-2  | 1:100                        | 4,646 sf   | 46        |                       |
| Business   | 1:100                        | 1,515 sf   | 15        |                       |
| Egress Travel- Distances   |                              |  |           |                       |
| Common Path of Egress Travel Distance- (Table 1014.3)  |                              | 75'-0"   |           | (See Plan For Actual) |
| Spaces with 1 Exit Access -(Table 1015.1)Maximum Occupant Load=  |                              | 29   |           | (See Plan For Actual) |
| Exit Access Travel Distance (Table 1016.2)(2 Exits)  |                              | 200'-0"  |           | (See Plan For Actual) |
| Security and Sound Systems   |                              | N.I.C.   |           |                       |
| MN Energy Code 2015  |                              |  |           |                       |
| Existing- Building- No Change of Envelope.   |                              |  |           |                       |
| Plumbing Requirements- MN BC Chapter 29 Table 2902.1   |                              |  |           |                       |
| The Building has 2 Restrooms- both Unisex- 1 for Public Use, 1 for Staff Use according to 2902.1.1 Fixture Calculations Exception: The total Occupant Load shall divided in half where approved statistical data indicate a distribution of the sexes of other than 50% of each sex.   |                              |  |           |                       |
| Fixtures   | Required                     | Existing   | Total     |                       |
| Water Closets/ Urinals   | 1/100                        | 1  | 1         |                       |
| Lavatories   | 1/100                        | 1  | 1         |                       |
| Drinking Fountains   | 1/1000                       | 0-   | 0-        |                       |
| Exception j. "Water or other beverages available through free or fee based serving or dispensers may be substituted for up to 50% of the required number of drinking fountains."   |                              |  |           |                       |
| Service Sink   | 1 per building               | 1  | 1         |                       |
| Accessibility Minnesota Accessibility Code 2015- No work is being completed.   |                              |  |           |                       |
| 1112.7 Alterations to an area containing a primary function... The alterations to the path of travel, toilet rooms, parking facilities, telephones, and drinking fountains serving the altered area need not exceed 20% of the cost of the alteration to the primary function area- in the order of priority (1112.1):   |                              |  |           |                       |
| 1. Accessible Path,<br>2. Accessible Toilet Facilities,<br>3. Accessible Parking,<br>4. Accessible Telephones, and<br>5. Accessible Drinking Fountains.<br>The building is currently accessible.   |                              |  |           |                       |

Legend 1  
1/4" = 1'-0"

| REVISIONS | date |
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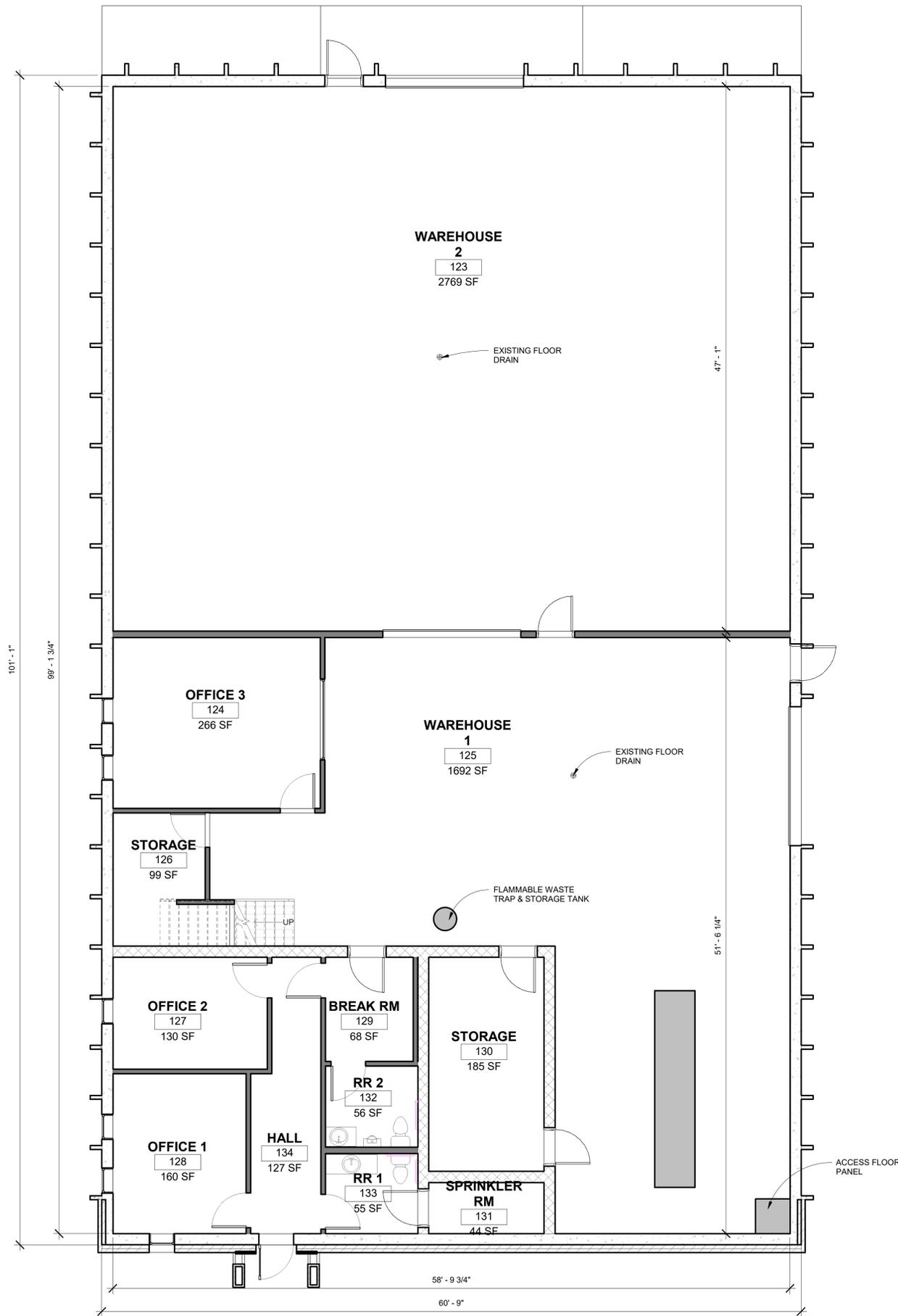
Jeffrey H. R. Hoffmann  
NCARB  
Signature: Jeffrey H. R. Hoffmann  
License: 333

Date  
8/29/2019 12:17:18 PM

Sheet Title: Site Plan  
Project: Fix Auto  
8832 Zealand Ave N  
Minneapolis, MN 55445

Project number: 2019-46  
Drawn by: Author  
Checked by: Checker  
Construction Documents

A000



1 Level 1  
3/16" = 1'-0"



| REVISIONS | date |
|-----------|------|
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**INSPIRE ARCHITECTS**  
 465 148th Avenue NE  
 Ham Lake, MN 55304  
 763-807-1044  
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Jeffrey H. Hoffmann  
 NCARB  
 Signature: *J. Hoffmann*  
 License: 0333

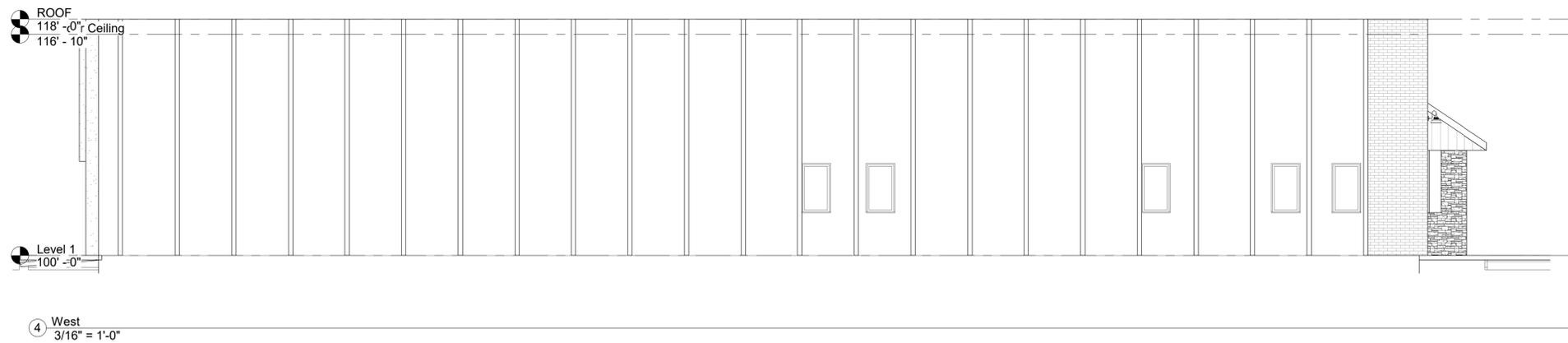
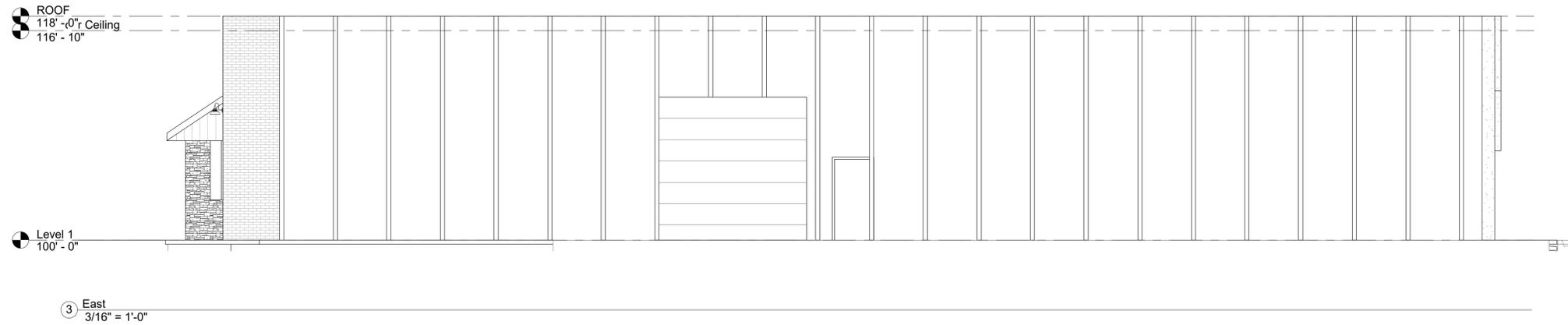
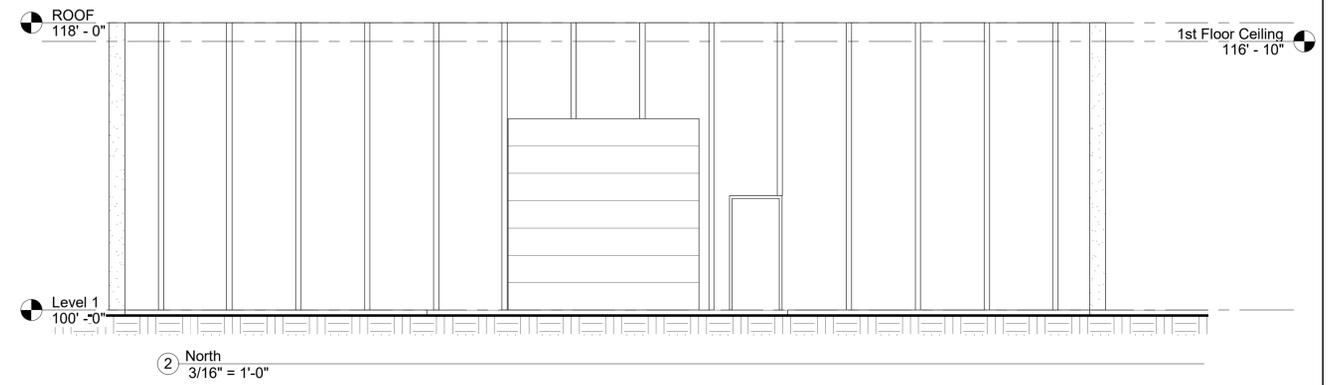
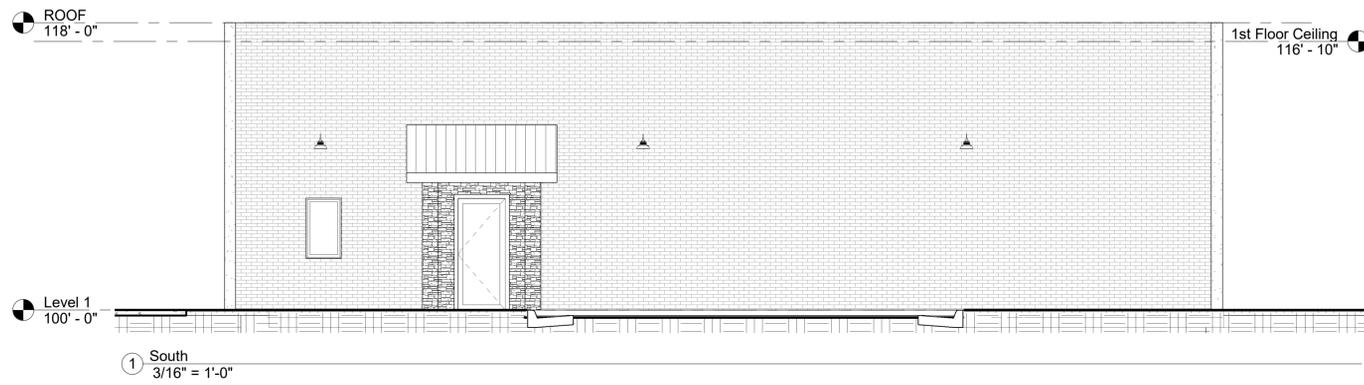
Date: 8/29/2019 12:17:24 PM

Sheet Title: Plans  
 Project: **Fix Auto**  
 8832 Zealand Ave N  
 Minneapolis, MN 55445

|                        |         |
|------------------------|---------|
| Project number         | 2019-46 |
| Drawn by               | Author  |
| Checked by             | Checker |
| Construction Documents |         |

**A100**

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| REVISIONS | date |
|-----------|------|
|           |      |
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|           |      |
|           |      |



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I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota.

Jeffrey H. Hoffmann  
NCARB  
Signature: *J. Hoffmann*  
License: 333

Date  
8/29/2019 12:17:26 PM

Sheet Title: Elevations  
Project: **Fix Auto**  
8832 Zealand Ave N  
Minneapolis, MN 55445

Project number: 2019-46  
Drawn by: Author  
Checked by: Checker  
Construction Documents

**A300**

# City of Brooklyn Park Request for Council Action

|                        |  |                                |                                  |
|------------------------|--|--------------------------------|----------------------------------|
| <b>Agenda Item:</b>    | 6.2  | <b>Meeting Date:</b>           | October 28, 2019                 |
| <b>Agenda Section:</b> | Land Use Actions   | <b>Originating Department:</b> | Community Development            |
| <b>Resolution:</b>     | X  | <b>Prepared By:</b>            | Natalie Davis, Program Assistant |
| <b>Ordinance:</b>      | N/A  |                                |                                  |
| <b>Attachments:</b>    | 3  | <b>Presented By:</b>           | Cindy Sherman, Planning Director |
| <b>Item:</b>           | Green Haven 2 <sup>nd</sup> Addition (Plateau Properties LLC) – Final Plat #19-117 to Subdivide Existing Residential Lots into Two Lots at 7900 Mount Curve Boulevard North and 7880 Mount Curve Boulevard North |                                |                                  |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ APPROVING FINAL PLAT #19-117 OF "GREEN HAVEN 2<sup>ND</sup> ADDITION," SUBDIVIDING PARCEL INTO TWO SINGLE-FAMILY LOTS AT 7900 MOUNT CURVE BOULEVARD NORTH AND 7880 MOUNT CURVE BOULEVARD NORTH.

## Overview:

The preliminary plat for this subdivision was approved by the Council in a 4-3 vote on September 23, 2019. Based on Council direction at the time of preliminary plat, the City's Traffic Engineer, Jeff Holstein, reviewed the parking in the area and determined that seven "no parking" signs will be placed along the south side of Mount Curve Blvd. These signs will be installed at the expense of the applicant.

Plateau Properties LLC, the current property owner, requests a lot division of an oversized property at 7900 Mount Curve Boulevard. Each lot individually will meet the area and dimension requirements of the R3 Single-Family Zoning District. Both lots will front on to Mount Curve Boulevard North. The intent of the subdivision is to create a lot to construct a group home, which is a permitted use in the R-3 zoning district and not subject to City Council approval.

## Primary Issues/Alternatives to Consider:

1. Approve the proposal consistent with previous Council approvals.
2. Approve the proposal with modifications.
3. Deny the proposal based on certain findings.

## Budgetary/Fiscal Issues:

Park dedication of \$4,600 will be collected on the lot created for new construction at this time.

## Attachments:

- 6.2A RESOLUTION
- 6.2B LOCATION MAP
- 6.2C FINAL PLAT

RESOLUTION #2019-

RESOLUTION APPROVING FINAL PLAT OF "GREEN HAVEN 2<sup>ND</sup> ADDITION,"  
SUBDIVIDING PARCEL INTO TWO SINGLE-FAMILY LOTS  
AT 7900 MOUNT CURVE BOULEVARD NORTH AND 7880 MOUNT CURVE BOULEVARD NORTH

Planning Commission File #19-117

WHEREAS, the plat of "Green Haven 2<sup>nd</sup> Addition" has been submitted in the manner required for platting of land under the Brooklyn Park City Codes and under Chapter 462 of the Minnesota Statutes and all proceedings have been duly had thereunder; and

WHEREAS, said plat is in all respects consistent with the City plan and the regulations and requirements of the laws of the State of Minnesota and codes of the City of Brooklyn Park, Chapters 151 and 152.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park, Final Plat Request #19-117 "Green Haven 2<sup>nd</sup> Addition" shall be approved subject to the following conditions:

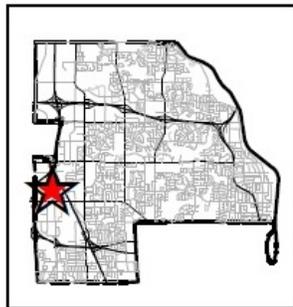
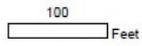
- a. Title review by the City Attorney and all conditions therein.
- b. Easement review by the City Engineer and all conditions therein.
- c. Per requirements set forth in Resolution #2019-151 or as subsequently amended by motion, approving the modified preliminary plat of "Green Haven 2<sup>nd</sup> Addition," which is part of this resolution by reference and is on file and can be examined in the City Clerk's office.
- d. Submission of a letter from the land surveyor or engineer indicating the square footage contained in each lot on the plat, per Section 151.043, Subdivision J, of the City Code.
- e. Submission of a CAD copy of the plat.
- f. Park dedication shall be satisfied with \$4,600 on the new lot created for new development.

BE IT FURTHER RESOLVED that such execution of the certificate upon said plat by the Mayor and City Manager shall be conclusive showing of proper compliance therewith by the subdivider and City officials and shall entitle such plat to be placed on record forthwith without further formality, all in compliance with M.S.A. 462 and the Subdivision Code of the City.

Plat #19-117 Green Haven 2nd Addition  
7900 Mt. Curve Blvd. N.



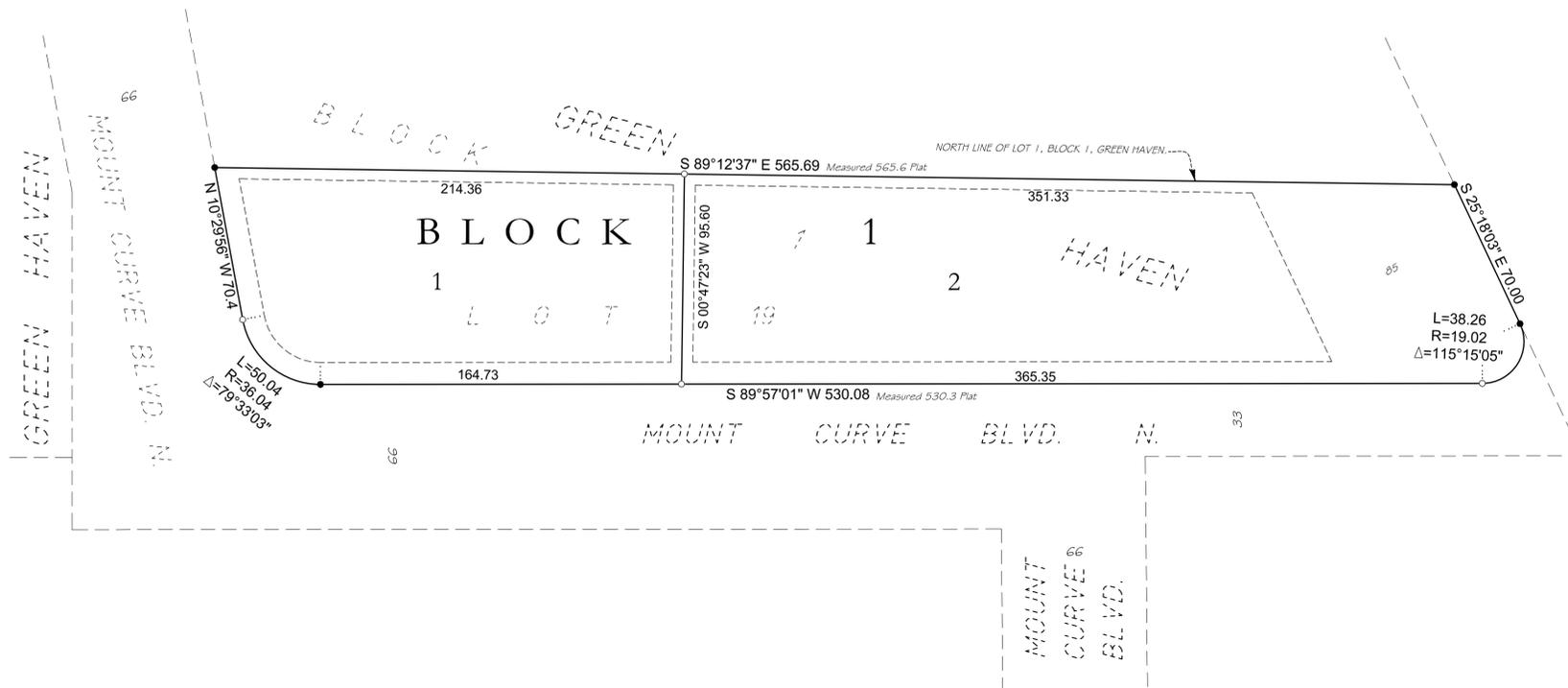
Spring 2018 Air Photo.



Map Date August 21, 2019

# GREEN HAVEN 2ND ADDITION

R. T. DOC. No. \_\_\_\_\_



DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



BEING 10 FEET IN WIDTH AND ADJOINING RIGHT OF WAY LINES AND 5 FEET IN WIDTH AND ADJOINING LOT LINES, UNLESS OTHERWISE SHOWN.

FOR THE PURPOSES OF THIS PLAT THE NORTH LINE OF LOT 19, BLOCK 1, GREEN HAVEN IS ASSUMED TO BEAR S 89°12'37\"/>



DENOTES 1/2 INCH BY 1/4 INCH IRON PIPE MONUMENT SET AND MARKED BY LICENSE NUMBER 24992, UNLESS OTHERWISE NOTED.

DENOTES FOUND 1/2 INCH IRON PIPE MONUMENT UNLESS OTHERWISE NOTED.

KNOW ALL PERSONS BY THESE PRESENTS: That Plateau Properties, LLC, a Minnesota limited liability company, owner of the following described property situate in the County of Hennepin, State of Minnesota, to wit:

Lot 19, Block 1, GREEN HAVEN.

Have caused the same to be surveyed and platted as GREEN HAVEN 2ND ADDITION and do hereby dedicate to the public for public use forever the easements for drainage and utility purposes as shown on the plat.

In witness whereof Plateau Properties, LLC, a Minnesota limited liability company has caused these presents to be signed by its proper officer this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

PLATEAU PROPERTIES, LLC

By \_\_\_\_\_  
President

STATE OF MINNESOTA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, President of Plateau Properties, LLC, a Minnesota limited liability company, on behalf of the company.

\_\_\_\_\_  
(Notary signature) \_\_\_\_\_  
(Notary's printed name)

Notary Public \_\_\_\_\_, County, Minnesota, My Commission Expires \_\_\_\_\_

I Gregory R. Prasch do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Gregory R. Prasch, Land Surveyor  
Minnesota License No. 24992

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

This instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Gregory R. Prasch.

\_\_\_\_\_  
(Notary signature) \_\_\_\_\_  
(Notary's printed name)

Notary Public \_\_\_\_\_, County, Minnesota, My Commission Expires \_\_\_\_\_

BROOKLYN PARK, MINNESOTA

This plat of GREEN HAVEN 2ND ADDITION was approved and accepted by the City Council of the City of Brooklyn Park, Minnesota, at a regular meeting thereof held this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. If applicable the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the city or the prescribed 30 day period has elapsed without receipt of such comments and recommendations, as provided by Minnesota Statutes, Section 505.03, Subdivision 2.

BROOKLYN PARK, MINNESOTA

By \_\_\_\_\_, Mayor By \_\_\_\_\_, City Clerk

RESIDENT AND REAL ESTATE SERVICES, Hennepin County, Minnesota

I hereby certify that the taxes payable in \_\_\_\_\_ and prior years have been paid for land described on this plat. Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Mark V. Chapin, Hennepin County Auditor By \_\_\_\_\_ Deputy

SURVEY DIVISION, Hennepin County, Minnesota

Pursuant to Minnesota Statutes, Sec. 383B.565 (1969) this plat has been approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Chris F. Mavis, Hennepin County Surveyor By \_\_\_\_\_

REGISTRAR OF TITLES, Hennepin County, Minnesota

I hereby certify that the within plat of GREEN HAVEN 2ND ADDITION was filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Martin McCormick, Registrar of Titles By \_\_\_\_\_ Deputy

The Gregory Group, Inc. d.b.a.  
**LOT SURVEYS COMPANY**  
LAND SURVEYORS

# City of Brooklyn Park Request for Council Action

|                        |   |                                |   |
|------------------------|---|--------------------------------|---|
| <b>Agenda Item:</b>    | 7.1   | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | General Action Items  | <b>Originating Department:</b> | Operations and Maintenance – Engineering Services Division    |
| <b>Resolution:</b>     | X   | <b>Prepared By:</b>            | Jeff Holstein, P.E., P.T.O.E.<br>City Transportation Engineer |
| <b>Ordinance:</b>      | N/A   |                                |   |
| <b>Attachments:</b>    | 3   | <b>Presented By:</b>           | Jesse Struve, City Engineer                                   |
| <b>Item:</b>           | Approve Supplemental Letter of Agreement No. 26 with SRF Consulting Group, Inc. to Provide Construction Administration Support Services for the Trunk Highway 169 / 101 <sup>st</sup> Avenue Interchange; CIP 4042-19 |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ TO APPROVE SUPPLEMENTAL LETTER AGREEMENT NO. 26 WITH SRF CONSULTING GROUP, INC. TO PROVIDE CONSTRUCTION ADMINISTRATION SUPPORT SERVICES FOR THE TRUNK HIGHWAY 169 / 101<sup>ST</sup> AVENUE INTERCHANGE; CIP 4042-19.

## Overview:

The city is moving forward toward the construction of a new full access interchange at the Highway 169/101<sup>st</sup> Avenue junction. The project is expected to cost \$29.7 million. This estimate includes the undergrounding of power along 101<sup>st</sup> Avenue (\$1 million) recently approved by the City Council. The city has been awarded \$22.5 million in federal and state funding grants for the project. The city also requested MnDOT to provide the construction engineering/management for the project and MnDOT has agreed to do so. The estimated value of the construction engineering/management is \$1.4 million. Therefore, the city participation is expected to be \$5.8 million of which the city has already spent \$1.8 million in project development costs.

The construction engineering and management to be provided by MnDOT will encompass most of the expected work needed during construction. However, unexpected conditions typically arise during construction requiring detailed knowledge of the design of the project. These changes can significantly impact cost and project schedule if not immediately resolved.

The funding grants acquired for the project are required to be spent on specific project items. The process for submitting for reimbursement is complex. It is critical for the city to have assistance administering the grant funding to ensure that we are applying the funds to get the maximum use and quick reimbursement.

Staff requested SRF Consulting Group, Inc. to prepare a proposal to provide construction administrative support for unexpected items that may arise during the construction of the project and to guide the city through the grant use, submittal and reimbursement request processes. The SRF work will also include regular updates to the project website on the status of the project traffic switches and overall progress. The estimated cost to provide these services is \$85,000. The actual cost may be significantly less and SRF will only bill for actual time spent.

The city has a current consultant services agreement with SRF. The agreement states that work items may be completed by Supplemental Letter agreement under the master consultant services agreement approved by the City Council on June 12, 2017. A copy of the Supplemental Letter of Agreement for this additional work and the work scope is attached.

Staff recommends the City Council approve Supplemental Letter of Agreement No. 26 with the SRF Consulting Group, Inc. to provide construction administrative support services for the Trunk Highway 169 / 101<sup>st</sup> Avenue Interchange Project.

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

**Budgetary/Fiscal Issues:**

The project is included in the 2019-2023 Capital Improvement Plan. The CIP has \$2,000,000 budgeted for planning and design in 2019. The budgeted amount will cover the design, right of way acquisition services and environmental work already completed and the proposed construction administration support services work. The city will use other governmental grant funds, EDA monies, State Aid funds and possibly special assessments as funding sources.

**Attachments:**

- 7.1A RESOLUTION
- 7.1B SUPPLEMENTAL LETTER AGREEMENT NO. 26
- 7.1C PROJECT FUNDING MATRIX

RESOLUTION #2019-

RESOLUTION TO APPROVE SUPPLEMENTAL LETTER AGREEMENT NO. 26  
WITH SRF CONSULTING GROUP, INC. TO PROVIDE CONSTRUCTION ADMINISTRATION SUPPORT  
SERVICES FOR THE TRUNK HIGHWAY 169 / 101<sup>ST</sup> AVENUE INTERCHANGE; CIP 4042-19

WHEREAS, a Master Agreement (four-year duration) with SRF Consulting Group, Inc. was approved for Planning / Land Use and Engineering services by the City Council on June 12, 2017; and

WHEREAS, the Master Agreement provides for individual projects to be negotiated by supplemental letter agreements; and

WHEREAS, the City has retained the SRF Consulting Group, Inc. for design services for CIP 4042-19; and

WHEREAS, a Supplemental Letter of Agreement and work scope was submitted by SRF Consulting Group, Inc. to provide construction administration support services for the Trunk Highway 169 / 101<sup>st</sup> Avenue Interchange and it was reviewed by staff and determined to be complete and of reasonable cost and in accordance with the Master Agreement for execution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to approve entering into Supplemental Letter Agreement No. 26 with SRF Consulting Group, Inc. to provide construction administration support services for the Trunk Highway 169 / 101<sup>st</sup> Avenue Interchange.



October 16, 2019

Mr. Dan Ruiz  
Director of Operations and Maintenance  
CITY OF BROOKLYN PARK  
5200 85th Avenue North  
Brooklyn Park, MN 55443

SUBJECT: PROFESSIONAL SERVICES FOR CONSTRUCTION ADMINISTRATION SUPPORT  
TH 169 & 101<sup>ST</sup> AVE. INTERCHANGE  
LETTER AGREEMENT NO. 26

Dear Mr. Ruiz:

Based on your request, we are pleased to submit this proposal to provide professional services for construction administration support for the Trunk Highway 169/101st Avenue North interchange. The purpose of these services is to assist the city and provide additional support to the City of Brooklyn Park and MnDOT during construction of the interchange.

### **SCOPE OF SERVICES**

Our work will focus on ensuring grant funds are allocated to paying for eligible pay items. We will work closely with city and MnDOT staff to document spending of grant funds including:

- TED
- TEDi
- State Bonds
- Federal funding (regional)
- Local/State Aid

We will coordinate any plan changes that become necessary during construction including:

- Review of proposed changes (either by the contractor, MnDOT or City of BP)
- Analyze impacts to project schedule and costs and provide recommendations
- Make necessary plan & quantity changes (if needed) and provide revised, signed plan sheets.
- Document change orders (or other deviations from the project plan) to ensure funding eligibility is met.

Other miscellaneous tasks include:

1. Attend weekly construction coordination meeting to understand any project issues that may come up and provide input/recommendations to city and/or MnDOT staff.
2. Review shop drawings and provide recommendations for approval.
3. Assist with any permit issues during construction.

**www.srfconsulting.com**

One Carlson Parkway North, Suite 150 | Minneapolis, MN 55447-4443 | 763.475.0010 Fax: 763.475.2429

*An Equal Opportunity Employer*

Mr. Dan Ruiz  
City of Brooklyn Park

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October 16, 2019

4. Review Critical Path Method (CPM) schedule which the contractor is required to submit on monthly basis for review. Curt Sohn will review and advise City and MnDOT staff on reasonableness of the contractors proposed schedule and recommend revisions as necessary to meet the contract completion date(s).
5. Provide supplemental survey and/or inspection if requested by the City.
6. Assist with public engagement as needed; this work to include updating project website and/or other methods of communication with residents and local stakeholders. Regular posted updates to the project website to inform the public of planned traffic switches as well as overall project status changes and progress. Includes availability to answer public questions as needed.
7. Provide City with as-builts of final construction of underground utilities.

### **ASSUMPTIONS AND CITY RESPONSIBILITIES**

The following assumptions apply to this proposal:

1. The project will be let in late 2019 or early 2020. Construction activity will be ongoing through late 2020.
2. MnDOT is providing Construction Administration services for the entire project.
3. SRF will coordinate with City staff to determine the ongoing level of effort needed to meet the needs of the project. This proposal includes enough hours to assist with all the items listed above, however, a lesser effort may be sufficient depending on the actual prosecution of work by the contractor. SRF will adjust our level of effort and coordinate with City staff as needed to ensure our amount of time spent on the project is commensurate with project needs.

### **SCHEDULE**

We will complete this work within a mutually agreed-upon time schedule. We expect the work to begin with project letting and extending through project close out.

### **BASIS OF PAYMENT/BUDGET**

We propose to be reimbursed for our services on an hourly basis for the actual time expended. Other direct project expenses, such as printing, supplies, reproduction, etc., will be billed at cost, and mileage will be billed at the current allowable IRS rate for business miles. Invoices are submitted on a monthly basis for work performed during the previous month. Payment is due within 30 days.

This work is to be done under the Agreement for Professional Services (Master) dated June 2017 between SRF Consulting Group, Inc. and the City of Brooklyn Park.

Based on our understanding of the project and our scope of services, we estimate the cost of our services not to exceed \$85,000, which includes both time and expenses.

Mr. Dan Ruiz  
City of Brooklyn Park

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October 16, 2019

### **CHANGES IN THE SCOPE OF SERVICES**

It is understood that if the scope or extent of work changes, the cost will be adjusted accordingly. Before any out-of-scope work is initiated, however, we will submit a budget request for the new work and will not begin work until we receive authorization from you.

### **ACCEPTANCE/NOTICE TO PROCEED**

A signed copy of this proposal, mailed or emailed to our office, will serve as acceptance of this proposal and our notice to proceed. The email address is [kjullie@srfconsulting.com](mailto:kjullie@srfconsulting.com).

We sincerely appreciate your consideration of this proposal and look forward to working with you on this project. Please feel free to contact us if you have any questions or need additional information.

Sincerely,

SRF CONSULTING GROUP, INC.

Kevin Jullie, PE  
Principal

KJ

cc: Jeff Holstein, City of Brooklyn Park

Mr. Dan Ruiz  
City of Brooklyn Park

October 16, 2019

**Approved**

  
\_\_\_\_\_  
(signature) Dan Ruiz, Director of Operations and Maintenance

Name     Dan Ruiz    

Title     OTM Director    

Date     10/23/19    

**Approved**

\_\_\_\_\_  
(signature) Jay Stroebel, City Manager

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**Approved**

\_\_\_\_\_  
(signature) Jeffrey Joneal Lunde, Mayor

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**This cost proposal is valid for a period of 90 days. SRF reserves the right to adjust its cost estimate after 90 days from the date of this proposal.**

SRF 12687.PP

**US 169 & 101st Avenue Interchange - 10/07/19**

| Project Work Type                          | Estimated Cost      | Funding Sources        |                    |                     |                    |                           |                    | Total               |
|--|---------------------|------------------------|--------------------|---------------------|--------------------|---------------------------|--------------------|---------------------|
|  |                     | Local (1)              | MnDOT (3)          | TED (4)             | TEDi (5)           | Regional Solicitation (6) | State GO Bonds (7) |                     |
| Preliminary Engineering and EAW            | \$690,000           | \$690,000              | \$0                | \$0                 | \$0                | \$0                       | \$0                | \$690,000           |
| Environmental Update (EA)                  | \$110,000           | \$110,000              | \$0                | \$0                 | \$0                | \$0                       | \$0                | \$110,000           |
| Final Design & ROW Services                | \$1,500,000         | \$1,500,000            | \$0                | \$0                 | \$0                | \$0                       | \$0                | \$1,500,000         |
| Right-of-Way Acquisition Trunk Highway (9) | \$5,000,000         | \$1,000,000            | \$0                | \$4,000,000         | \$0                | \$0                       | \$0                | \$5,000,000         |
| Right-of-Way Acquisition Local Roadway (9) | \$2,000,000         | \$1,500,000            | \$0                | \$0                 | \$500,000          | \$0                       | \$0                | \$2,000,000         |
| Construction/Trunk Highway                 | \$11,000,000        | \$1,000,000            | \$0                | \$6,000,000         | \$0                | \$4,000,000               | \$0                | \$11,000,000        |
| Construction/Local Roadway                 | \$8,000,000         | \$0                    | \$0                | \$0                 | \$1,000,000        | \$3,000,000               | \$4,000,000        | \$8,000,000         |
| Construction Management (3)                | \$1,400,000         | \$0                    | \$1,400,000        | \$0                 | \$0                | \$0                       | \$0                | \$1,400,000         |
| <b>Totals</b>                              | <b>\$29,700,000</b> | <b>\$5,800,000 (8)</b> | <b>\$1,400,000</b> | <b>\$10,000,000</b> | <b>\$1,500,000</b> | <b>\$7,000,000</b>        | <b>\$4,000,000</b> | <b>\$29,700,000</b> |

- 1 Local is monies from City of BP including possible assessments from property owners. Does not include city staff time.
- 2 omitted.
- 3 Construction Administration value is approximate.
- 4 Funds available in 2019 (ie, start of project)  
50% available upon letting; remaining available when project is 50% complete.
- 5 Similar to bonding; must be used on local portion. These funds are reimbursable for work complete
- 6 Reimbursable for work complete on construction only. Advanced Construction has been applied for 2019
- 7 Funds available in 2019 (ie, start of project). Need Agreement.
- 8 \$1,800,000 already spent in project development. Balance of \$4,000,000.

# City of Brooklyn Park Request for Council Action

|                        |   |                                |   |
|------------------------|---|--------------------------------|---|
| <b>Agenda Item:</b>    | 7.2   | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | General Action Items  | <b>Originating Department:</b> | Community Development   |
| <b>Resolution:</b>     | N/A   | <b>Prepared By:</b>            | Sarah Abe, Project Facilitator;<br>Erika Byrd, Development<br>Project Coordinator |
| <b>Ordinance:</b>      | SECOND READING  |                                |   |
| <b>Attachments:</b>    | 2   | <b>Presented By:</b>           | Erika Byrd  |
| <b>Item:</b>           | Second Reading of the Brooklyn Park Tenant Notification Ordinance |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2019-\_\_\_\_ AMENDING CHAPTER 117 OF THE BROOKLYN PARK CITY CODE REGARDING TENANT NOTIFICATIONS FOLLOWING THE TRANSFER OF OWNERSHIP FOR RENTAL HOUSING UNITS.

## Overview:

On October 14, 2019, the Brooklyn Park City Council adopted a first reading a Tenant Notification Ordinance. Based on Council Member feedback, the ordinance purpose statement has been changed in an effort to more clearly communicate intention. The change to the ordinance is as such:

**Purpose.** The purpose of this Section is to provide housing stability, protection and notification to tenants in rental housing during an ownership transition. This Section requires notice to tenants and to the City whenever title to property containing three or more rental housing units is conveyed or otherwise transferred. ~~Payment of tenant relocation assistance may be required when tenants are forced to move within the tenant notification period without having adequate time to find new housing.~~ Under the ordinance the owner would be required to pay resident relocation benefits if they take certain actions during the three-month tenant notification period and the resident needs to move as a result of that action.

City Council adoption on second reading is required for the Tenant Notification Ordinance to become effective.

## Background:

In April of 2018, St. Louis Park became the first city in the Twin Cities Metropolitan Area to pass a Tenant Protection Ordinance. Their ordinance was recommended by a city-convened workgroup that included representatives from Minnesota Multi-Housing Association, the St. Louis Park rental community and representatives from agencies advocating for the preservation of naturally occurring affordable housing. Variations of that tenant protection ordinance have since been adopted in Bloomington, Brooklyn Center, Golden Valley, Hopkins, and Richfield.

The Brooklyn Park Economic Development Authority (EDA) continuously updates its housing policies and initiatives to improve quality of life in the community. At its November 2018 and February 2019 meetings, the EDA identified several housing policy priorities. The creation of an ordinance that would help protect tenants at the time of property sale emerged as a priority for 2019. City Staff prepared a Brooklyn Park Tenant Notification Ordinance, which is modelled on a number of regional examples, but adapted to fit Brooklyn Park's context and processes. Staff shared the proposed ordinance with several stakeholder groups over the past six months, including the City Human Rights Commission, local housing organizations and advocates, and the Minnesota

Multi-Housing Association. Staff has also been maintaining a monthly housing update memo that is distributed to anyone who expresses interest in housing related work in the City.

The City Council adopted a first reading of the Brooklyn Park Tenant Notification Ordinance on October 14, 2019. At that time, and through additional communications with staff, City Council Members provided the following feedback:

- The need for this type of ordinance to protect tenants.
- Concern that the ordinance hasn't done anything in other cities.
- Concern that the ordinance may increase costs for businesses or make property ownership less attractive in Brooklyn Park.
- The need to include landlords in planning and work with them in implementation.
- The ordinance's purpose statement should be clarified to match the staff report and FAQ.
- Clarify when a tenant must give notice and/or move in order to be eligible for relocation assistance.

#### Primary Issues/Alternatives to Consider:

- **What are the components of the Brooklyn Park Tenant Notification Ordinance?**

An outline of key components of the proposed ordinance is below.

|                                   |  |
|-----------------------------------|--|
| <b>Property Affected</b>          | The ordinance would apply when there is an ownership transfer of a property with three or more rental housing units.   |
| <b>Tenant Notification Period</b> | The tenant notification commences on the date when a written notice of the transfer of ownership is sent to each tenant and ends on the last day of the third full calendar month following the date on which the notice was sent.   |
| <b>Notice requirements</b>        | <p>The new owner must within thirty (30) days after the real estate closing deliver written notice to each tenant. The notice must include the following information:</p> <ul style="list-style-type: none"> <li>• Name, mailing address, and telephone number of the new owner;</li> <li>• A statement informing the tenant about the Tenant Notification Ordinance and the situations under which a tenant may be entitled to relocation assistance;</li> <li>• Whether <u>during the three-month tenant notification period</u> the new owner will increase rent, require existing tenants to be rescreened, not renew rental agreements without cause, or impose a material change to the lease;</li> <li>• Whether within the <u>30 days immediately after the tenant notification period ends</u> the new owner intends to increase rent, require existing tenants to be rescreened, not renew rental agreements without cause, or impose a material change to the lease;</li> <li>• The date that the tenant notification period ends.</li> </ul> |
| <b>Notice to the City</b>         | A copy of the notice delivered to tenants must be sent to the City of Brooklyn Park's Community Development department.  |

|                              |  |
|------------------------------|--|
| <b>Relocation assistance</b> | <p>Under the proposed Tenant Notification Ordinance, the new owner may be required to pay relocation benefits to tenants if the new owner:</p> <ul style="list-style-type: none"> <li>• Raises the rent and the tenant terminates his or her rental agreement due to the rent increase;</li> <li>• Requires existing tenants to be rescreened or comply with new screening criteria and the owner or tenant terminates the tenant's lease;</li> <li>• Imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease; or</li> <li>• Terminates or does not renew the tenant's rental agreement without cause</li> </ul> <p>The amount of the relocation assistance is three months of rent.</p> |
| <b>Penalty</b>               | <p>A violation of this ordinance could result in administrative citation and penalty. The penalty is equal to \$500 plus any relocation assistance that is owed the tenant but has not yet been paid. The owner must pay the sum of the penalty to the City; the City would in turn pay to the displaced tenant the relocation assistance amount. A violation of this ordinance shall constitute a separate offense for each dwelling unit affected.</p>   |
| <b>Tenant complaints</b>     | <p>Tenants may submit a notice of violation to the City to aid the City in determining whether to impose an administrative penalty. The City is not required to take action.</p>   |
| <b>Language requirement</b>  | <p>Landlords must provide the following advisory in English, Hmong, and Spanish on each notice: "This is important information about your housing. If you do not understand it, have someone translate it for you now, or request a translation from your landlord." Upon request, the landlord must provide the entire notice in the required language.</p>   |

- **Does this ordinance require a tenant to move within the 3-month tenant notification period in order to be eligible for relocation assistance?**

No, the period in which a tenant moves could potentially be longer than the 3-month tenant notification period. For example, an owner must pay relocation assistance if, during the three-month tenant notification period, the owner terminates or does not renew the tenant's rental agreement without cause or rescreens an existing tenant and issues a non-renewal. This applies regardless of tenant move-out date.

Many existing leases require both the landlord and tenant to give 60 days' notice for non-renewal. Such lease terms legally must be honored by a new owner and the tenant. This means that if a tenant were to be given a non-renewal notice by the new owner in the third month of the tenant notification period, the tenant may still have one to two months to move (depending on the language in their existing lease).

- **How does the proposed Brooklyn Park ordinance differ from other regional ordinances?**

While regional tenant notification or protection ordinance share much in common, there are some key differences that have emerged. The proposed Brooklyn Park Tenant Notification Ordinance is most closely aligned to the ordinance passed by Brooklyn Center. Both the proposed Brooklyn Park ordinance and the adopted Brooklyn Center ordinance differ from earlier versions of this ordinance in the following ways:

- 1) The Brooklyn Park ordinance applies to all multi-family housing buildings which have three or more rental units. Most other cities have developed versions of the ordinance that focus only on housing properties with a certain number of rental units that are classified as "affordable," typically meaning they are rented for an amount at or below 60 percent of the area median income. The proposed Brooklyn Park ordinance includes units at all rent levels in order to afford all tenants the same protections and to ease administrative enforcement of the ordinance by applying it to all multi-family housing buildings in the city.

- 2) Language requirements have been added to the Brooklyn Park ordinance. This feature has been added to respond to the linguistic needs of the Brooklyn Park community, where approximately 28% of Brooklyn Park residents speak a language other than English at home.
- 3) Notice to the City was added as a feature to help aid with coordination between City staff, new owners, and tenants.
- 4) In addition to termination, raising the rent, and rescreening, the proposed Brooklyn Park ordinance covers material changes to the lease that significantly limits or restricts the tenants' use and enjoyment of a housing unit or the housing building. A tenant may be entitled to relocation assistance from the new owner if, during the three-month tenant notification period, the new owner imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease. Staff felt that this "material change" element could provide key short-term protections to existing tenants while not being overly burdensome to landlords during the interim tenant protection period. Examples of material lease changes could include changes to occupancy limits, pet permissions, or changing tenants to use a previously free amenity such as parking.

- **What are the next steps?**

The Brooklyn Park Tenant Notification Ordinance would take effect as soon as it is adopted by Council. If adopted, staff would send out letters and information to current owners. Staff would work with the rental licensing and assessing teams to learn about ownership changes in order to reach out to new owners to inform them of ordinance. Staff is also working on communication tools for tenants and owners. A sample FAQ packet is attached as item 7.2B. Communication with tenants would be provided through flyers, the city website, handouts at renter events, and communication in partnership with housing organizations.

**Budgetary/Fiscal Issues:**

No direct budgetary impacts are anticipated for 2020 but this ordinance will require some administration activities by staff including sale monitoring, follow-up on violations, and owner and tenant education about the program.

**Attachments:**

- 7.2A ORDINANCE
- 7.2B FAQ PACKET

ORDINANCE #2019-

ORDINANCE AMENDING CHAPTER 117 OF THE BROOKLYN PARK CITY CODE  
REGARDING TENANT NOTIFICATIONS FOLLOWING THE TRANSFER OF OWNERSHIP  
FOR RENTAL HOUSING UNITS

~~Test with strikeout is proposed for deletion~~  
Underlined text is proposed for insertion

The City of Brooklyn Park does ordain:

Section 1. Chapter 117 of the Brooklyn Park City Code is amended by adding the following section:

**§ 117.486 TENANT NOTIFICATION**

- (A) **Purpose.** The purpose of this Section is to provide housing stability, protection and notification to tenants in rental housing during an ownership transition. This Section requires notice to tenants and to the City whenever title to property containing three or more rental housing units is conveyed or otherwise transferred. Under the ordinance the owner would be required to pay resident relocation benefits if they take certain actions during the three-month tenant notification period and the resident needs to move as a result of that action.
- (B) **Definitions.** The following definitions apply in this section. Defined terms remain defined terms, whether or not capitalized.
- (1) **Cause.** The tenant or a member of the tenant's household materially violated a term of the lease or rental agreement, or violated an applicable federal, state, or local law or regulation.
  - (2) **Housing Building.** A building with three or more rental units.
  - (3) **Housing Unit.** A rental unit within a housing building.
  - (4) **Material Change.** A change in the terms of a lease that significantly limits or restricts the tenants' use and enjoyment of a housing unit or the housing building.
  - (5) **Tenant Notification Period.** The period that commences on the date when a written notice of the transfer of ownership of a Housing Building is sent to each housing unit tenant pursuant to Section 117.486(C) and ends on the last day of the third full calendar month following the date on which the notice was sent. In no case shall the tenant notification period be less than 90 days.
- (C) **Notice**
- (1) **Notice to tenants.** Whenever title to property containing a housing building is conveyed or otherwise transferred, the new owner must within thirty (30) days after the real estate closing deliver written notice to each housing unit tenant of

the housing building that the property is under new ownership. The notice must include, at a minimum, the following information:

- (a) The name, mailing address, and telephone number of the new owner.
  - (b) The following statement: "Brooklyn Park City Code Section 117.486 provides for a three month tenant notification period for housing unit tenants. Under this Section, a housing unit tenant may be entitled to relocation assistance from the new owner if, during the three month tenant notification period, the new owner;
    - (i) terminates or does not renew the tenant's rental agreement without cause;
    - (ii) raises the rent and the tenant terminates his or her rental agreement due to the rent increase;
    - (iii) requires existing tenants to be rescreened or comply with new screening criteria and the owner or tenant terminates the tenant's lease; or
    - (iv) imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease."
  - (c) Whether there will be any rent increase within the three month tenant notification period and, if so, the amount of the rent increase and the date the rent increase will take effect.
  - (d) Whether the new owner will require existing housing unit tenants to be rescreened or comply with new screening criteria during the three month tenant notification period and, if so, a copy of the applicable screening criteria.
  - (e) Whether the new owner will, without the tenant's consent, impose a material change in the terms of the lease during the three month tenant notification period and, if so, the language of the material change and explanation of its effect.
  - (f) Whether the new owner will terminate or not renew rental agreements without cause during the three month tenant notification period and, if so, notice to the affected housing unit tenants whose rental agreements will terminate and the date the rental agreements will terminate.
  - (g) Whether the new owner intends to increase rent, require existing tenants to be rescreened to determine compliance with existing or modified residency screening criteria, terminate or not renew housing unit rental agreements, or impose a material change in the terms of the lease without cause within thirty (30) days immediately following the tenant notification period.
  - (h) The date that the tenant notification period will expire.
- (2) **Language requirement.** Each notice required by this Section shall contain an advisory that reads as follows: "This is important information about your housing.

If you do not understand it, have someone translate it for you now, or request a translation from your landlord.” This advisory must be stated in the notice in the following languages: English, Hmong, and Spanish. Upon written request by a tenant that identifies the tenant’s native language, the owner must provide a written translation of the notice in that language.

- (3) **Notice to the city.** The new owner must deliver a copy of the notice required by clause (C1) to the City Community Development Department at the same time that the notice is delivered to tenants.
- (4) **Required tenant notification period.** The new owner of a housing building must not terminate or not renew a tenant’s rental agreement without cause, raise rent, rescreen existing tenants, or impose a material change to the terms of the lease during the tenant notification period without providing the notices required by clause (C) of this Section.

**(D) Relocation Assistance**

- (1) **When Required.** A new owner of a housing building must pay relocation assistance to housing unit tenants if, during the three month tenant notification period, the new owner:
  - (a) terminates or does not renew the tenant’s rental agreement without cause;
  - (b) raises the rent and the tenant terminates his or her rental agreement due to the rent increase;
  - (c) requires existing tenants to be rescreened or comply with new screening criteria and the owner or tenant terminates the tenant’s lease; or
  - (d) imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant’s lease.
- (2) **Amount.** Relocation assistance is an amount equal to three months of the current monthly lease rent.
- (3) **When Paid.** The new owner shall, when required, pay relocation assistance to the tenant of a housing unit within thirty (30) days after receiving tenant’s written notice of termination of the lease or within thirty (30) days after the owner notifies the tenant that the lease will be terminated or not renewed.

**(E) Tenant Complaints**

- (1) A tenant of a housing unit who believes the new owner has not provided the tenant the notifications required under this Section may submit a notice of violation to the City. The purpose of the notice is to inform the City of an alleged violation of this Section to assist the City in determining whether to impose an administrative penalty provided for in this Section. The City is not required to take any particular action in response to a notice of violation and any enforcement action it does take shall be on behalf of the City, not the tenant. Filing a notice of

violation does not prohibit the tenant from pursuing any remedy available to the tenant under law.

**(F) Penalty**

- (1) A violation of clauses (C) and/or (D) of this Section is an administrative offense that may be subject to an administrative citation and civil penalties as provided in City Code Section 117.52. Notwithstanding any provision of City Code Section 117.52, the penalty for a violation of clauses (C) and/or (D) shall be the sum of the applicable amount of relocation assistance plus \$500.
- (2) A violation of this ordinance shall constitute a separate offense for each dwelling unit affected.
- (3) Within thirty (30) days after a person pays the penalty in clause (F1) to the City, the City shall pay to the displaced tenant of the housing unit in which the violation occurred an amount equal to the relocation assistance amount specified in Section D.



## Brooklyn Park Tenant Notification Ordinance Frequently Asked Questions

1. What is the Tenant Notification Ordinance?

Following an ownership transfer of a housing property with three or more rental units, the Brooklyn Park Tenant Notification Ordinance requires that the new owner provide notice to tenants within 30 days. The notice must include information about the ownership change and basic information about the city ordinance. Once notice is provided, a three-month "tenant notification period" begins. During these three months, the new owner may be required to pay relocation benefits to a tenant if the owner issues a non-renewal without cause or non-renewal due to rescreening. The new owner could also be subject to paying relocation assistance if they increase the rent, rescreen existing residents, or implementing a material change to the lease during this three-month tenant notification period and the tenant gives the notice to terminate their lease.
2. What does this mean for renters?

If the building or apartment complex that a renter lives in sells, the tenants should all receive a written notice from the new owner. The new owner must notify tenants if they are raising the rent, requiring that tenants meet new criteria to live in the building, refusing to renew a lease without cause, or making a significant change to the lease. If the owner/landlord does any of these things in the three months after the notice is given and the tenant moves as a result, the tenant may be entitled to relocation assistance in the amount of three months' rent.
3. Why was this ordinance adopted by the City of Brooklyn Park?

The City is concerned about the displacement of tenants residing in properties that have been sold to a new owner. The ordinance allows for a three-month period for residents to work with housing support resources and seek alternative housing if they are facing lease non-renewals without cause, unaffordable rent increases, new screening criteria requirements, or other material changes to the rental agreement, causing them to move.
4. When does the ordinance apply?

The ordinance applies when a rental housing property with three or more rental units in Brooklyn Park transfers ownership.
5. Does a transfer of sale include an ownership transfer to an immediate family member? Or as the result of inheritance?

If it is an actual transfer of ownership title that was not previously in place, it would be considered a sale and the ordinance would apply.
6. Would the policy apply to bank-owned or foreclosed properties?

Yes, all housing properties with three or more rental units transferring ownership through the sale of the property would be required to comply with the ordinance. For a foreclosed property, the three month notification period will begin when the redemption period has expired and the new owner has taken possession of the property.
7. What is my responsibility as a seller?

Sellers should make sure that the potential buyers are aware of the ordinance either directly or through their broker.



8. I'm buying a housing building – what is my responsibility?  
If the property has three or more rental units, the new owner is required to comply with the requirements of the Brooklyn Park Tenant Notification Ordinance. If you need any help understanding the ordinance, please contact the City of Brooklyn Park. City staff want to work with owners to help communicate and smoothly implement this ordinance.
9. Who needs to be notified?  
The new owner must notify all tenants.
10. Can I raise rents, facilitate non-renewals without cause, make a material change to the lease, or re-screen existing residents during the three-month tenant notification period following the transfer in ownership?  
This ordinance does not prohibit a new owner from taking the actions listed above. However, the owner would be required to pay resident relocation benefits if they issue lease non-renewals (without cause or due to rescreening) or take any of these actions during the three-month tenant notification period and the resident gives notice to move as a result.
11. When does the new owner have to provide relocation benefits?  
A new owner would be required to pay relocation assistance if during the three-month tenant notification period the new owner:
  - Raises the rent and the tenant terminates his or her rental agreement due to the rent increase;
  - Requires existing tenants to be rescreened or comply with new screening criteria and the owner or tenant terminates the tenant's lease;
  - Does not renew the tenant's rental agreement without cause; or
  - Imposes a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease.
12. Where can I find the required relocation assistance amount?  
Relocation assistance is an amount equal to three months of the current monthly lease rent.
13. Are there any restrictions after the three-month tenant notification period expires?  
If the new owner intends to increase rent, require existing tenants to be rescreened, terminate or not renew housing unit rental agreements, or impose a material change in the terms of the lease within the 30 days immediately following the end of three-month tenant notification period, the owner must provide this information to tenants during the tenant notification period. After that time, the Brooklyn Park Tenant Notification Ordinance would no longer apply, and owners can manage the property in accordance with their preferred management practices.
14. Are there income restrictions that apply?  
No, the ordinance applies to all housing buildings with three or more rental units regardless of the amount of rent charged or the tenant's income.
15. If a lease expires during the three-month notification period, can I raise the rent?  
You can renew the lease, but any rent increases must be effective following the expiration of the three-month tenant notification period or the owner may be subject to paying relocation benefits. If the new owner increases the rent during the three-month



tenant notification period and the tenant gives notice to move or terminates the lease agreement, the new owner would be required to pay relocation benefits to the tenant.

16. Does a tenant need to move out during the three-month Tenant Notification Period to qualify for relocation assistance?

If relocation assistance is owned, the assistance should be paid after the new owner gives notice to the tenant about non-renewal or the tenant gives notice to the owner that they will move/terminate due to a qualified owner action during the tenant notification period. It could be possible for a notice to be given during the 3-month tenant notification period window, but a tenant move-out to occur later. The existing lease terms would govern move-out timeline and process.

17. Does the ordinance apply if the management changes in the building?

No, the ordinance only applies if the ownership of the property transfers.

18. If I'm a renter, how can I learn more or file a complaint?

If you have any questions related to the implementation of this ordinance or wish to file a complaint, please contact Erika Byrd at the City of Brooklyn Park. Contact information is:

Erika Byrd

Development Project Coordinator, City of Brooklyn Park

Phone: 763-493-8053

Email: [erika.byrd@brooklynpark.org](mailto:erika.byrd@brooklynpark.org)

City Hall Address: 5200 85<sup>th</sup> Ave N, Brooklyn Park

|  |
|--|
| <p>Draft Notice: No rent increases, Page 12<br/>rescreening, non-renewals or material<br/>changes during tenant notification period.</p> |
|--|

Your company letterhead  
[Date]

**This is important housing information. If you do not understand it, have someone translate it for you now.**

**Información importante acerca de las viviendas. Si usted no lo comprende, pida a alguien que le traduzca ahora.**

**Qhov no yog lus tseem ceeb heev qhia txog tsev nyob. Yog tias koj tsis tau taub thov hais rau lwm tus pab txhais rau koj.**

Dear Tenant:

This letter is notifying you of a change of ownership at the property and the Brooklyn Park Tenant Notification Ordinance. Our company purchased the property and the new ownership is:

[New Owner Name]

[New Owner Mailing Address]

[New Owner Telephone Number]

[include new management information if applicable]

Brooklyn Park City Code Chapter 117 provides for a tenant notification period for rental housing unit tenants. Under Chapter 117, rental housing tenants may be entitled to relocation assistance from the new owner if the new owner terminates or does not renew the tenant's rental agreement without cause within the tenant notification period. Rental housing unit tenants may also be entitled to relocation assistance from the new owner if the owner raises the rent or initiates a tenant rescreening process within the tenant notification period and the tenant terminates their rental agreement. The tenant notification period is three calendar months following the month in which this written notice, ending [date of end of notification period]. During the tenant notification period, there will be no rent increases, we will not be re-screening existing tenants, and we will not issue non renewals of leases without cause.

On [date], which is after the tenant notification period, we will/will not be increasing rents by [insert dollar amount/range or percentage amount/range], we will/will not rescreen tenants for eligibility, and we will/will not terminate or not renew housing unit rental agreements without cause. If you have any questions regarding this notice, please contact [insert contact information].

Sincerely,

[New property owner]

Your company letterhead  
[Date]

**This is important housing information. If you do not understand it, have someone translate it for you now.**

**Información importante acerca de las viviendas. Si usted no lo comprende, pida a alguien que le traduzca ahora.**

**Qhov no yog lus tseem ceeb heev qhia txog tsev nyob. Yog tias koj tsis tau taub thov hais rau lwm tus pab txhais rau koj.**

Dear Tenant:

This letter is notifying you of a change of ownership at the property and the Brooklyn Park Tenant Notification Ordinance.

Our company purchased the property and the new ownership is:

[New Owner Name]  
[New Owner Mailing Address]  
[New Owner Telephone Number]  
[include new management information if applicable]

Brooklyn Park City Code Chapter 117 provides for a tenant notification period for rental housing unit tenants. Under Chapter 117, rental housing tenants may be entitled to relocation assistance from the new owner if the new owner terminates or does not renew the tenant's rental agreement without cause within the tenant notification period. Housing unit tenants may also be entitled to relocation assistance from the new owner if the owner raises the rent or initiates a tenant rescreening process within the tenant notification period and the tenant terminates their rental agreement.

The tenant notification period is three calendar months following the month in which this written notice, ending [date of end of notification period].

During the tenant notification period, we will be issuing rent increases, re-screening existing tenants, and/or terminating or not renewing housing rental agreements without cause. We will notify individual tenants of the date of the rent increases or non-renewal of the lease. A copy of the re-screening criteria is attached.

If you have any questions regarding this notice, please contact [insert contact information].

Sincerely,  
[New property owner]

## Tenant Resources

### **Hennepin County Front Door**

Residents may apply for short-term emergency rental assistance through the county.  
612-596-1300  
<https://www.hennepin.us/>

### **United Way 2-1-1**

Dial 211 or 612-340-7400 (English, Hmong, Russian, Somali, and Spanish)  
<http://www.gtcuw.org/>

### **Housing Benefits 101 (a service provided by Minnesota Department of Human Services)**

Housing information including resources specifically for older adults, people with disabilities, and the homeless.  
<https://mn.hb101.org/>

### **Minnesota Housing**

A state agency that provides financial and customer assistance for decent, safe, and affordable housing.  
651-296-8215  
<http://www.mnhousing.gov/sites/np/renters>

### **HUD in Minnesota**

Information about Section 3, homeownership, rental help, and avoiding foreclosure. Also has homeless resources and housing counselors.  
612-370-3000  
<https://www.hud.gov/states/minnesota/renting>

### **Minnesota Attorney General's Office**

Landlord and Tenants: Rights and Responsibilities  
651-296-3353  
<https://www.ag.state.mn.us/Office/ContactUs.asp>

### **Home Line**

Tenants may speak with a tenant advocate who will provide free advice regarding Minnesota landlord/tenant law.  
612-728-5767 or 866-866-3546  
<https://homelinemn.org/>

### **Housing Link**

Statewide list of affordable rental vacancies and information about Section 8 programs.  
612.522.2500  
[info@housinglink.org](mailto:info@housinglink.org)

### **Catholic Charities**

Provide service to people in need, to advocate for justice in social structures, and to call people of good will to do the same.  
612-204-8500  
<https://www.catholiccharitiesusa.org/>

**Lutheran Social Service (LSS)**

LSS operates a Housing Resource. LSS is also a provider of transitional, supportive, and permanent scattered-site housing. It requires referrals.

612-879-5266

<http://www.lssmn.org/About-Us/Contact-Us/>

**Youth Services Network**

Helping youth find shelter and services

612-377-8800

[ysnmn@bridgeforyouth.org](mailto:ysnmn@bridgeforyouth.org)

# City of Brooklyn Park Request for Council Action

|                        |  |                                |   |
|------------------------|--|--------------------------------|---|
| <b>Agenda Item:</b>    | 7.3  | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | General Action Items   | <b>Originating Department:</b> | Community Development                                     |
| <b>Resolution:</b>     | N/A  | <b>Prepared By:</b>            | Jason Newby, Inspections and Environmental Health Manager |
| <b>Ordinance:</b>      | FIRST READING  |                                |   |
| <b>Attachments:</b>    | 4  | <b>Presented By:</b>           | Jason Newby   |
| <b>Item:</b>           | FIRST READING of an Ordinance to Amend Chapter 92 of the City Code to Eliminate Pet Licenses |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING CHAPTER 92 OF CITY CODE PERTAINING TO ANIMALS AND ELIMINATING PET LICENSES.

## Overview:

At the October 7, 2019 City Council Work Session, staff shared the results from a recent continuous improvement project related to the administration of pet licenses. During this discussion, the City Council indicated an interest in staff's recommendation to eliminate the City-issued pet license requirement.

Reasons for this recommendation and key findings from the project:

- The number of pet licenses issued each year is declining.
- Multiple cities are moving away from issuing pet licenses.
- The administration of the pet license is cumbersome and the return on investment is low.
- Although the license is currently linked to the use of the dog parks, this is not enforced and not a deterrent for unlicensed animals from using the dog park.
- The vaccination was the main motivator for the original ordinance, but responsible pet owners are the ones primarily getting a license.
- Most impounded animals are not licensed.

## Staff Recommendation:

Staff recommends approval of the Code Amendments as presented.

## Budgetary/Fiscal Issues:

The administration of the pet license is staff intensive. While staff estimates the current fee structure allows the City to cover its costs in issuing the license, this work takes staff away from other city priorities. Also, given the limits of the City's software programs, it is difficult to deliver quality customer service during the issuance of the license and renewal process.

## Primary Issues/Alternatives to Consider:

1. Approve the code amendments as presented.
2. Approve the code amendments with modifications.
3. Deny the code amendments keeping the existing regulations in place.

**Attachment:**

- 7.3A ORDINANCE
- 7.3B CITY COMPARISON
- 7.3C STAFF MEMO
- 7.3D NEWS ARTICLE

ORDINANCE #2019-  
ORDINANCE AMENDING CHAPTER 92 OF CITY CODE PERTAINING TO ANIMALS AND  
ELIMINATING PET LICENSES

~~Text with strikeout is proposed for deletion~~

Underlined text is proposed for insertion

The City of Brooklyn Park does ordain

Section 1. Section 92.02 of the Brooklyn Park City Code is repealed.

Section 2. Section 92.12 of the Brooklyn Park City Code is amended to read as follows:

**§ 92.12 IMPOUNDING.**

It is the duty of the Animal Control Officer to apprehend any animal found running at large or otherwise in violation of the provisions of this chapter and to impound such animal in the pound or other suitable place pending compliance or a determination on the animal's disposition. The Animal Control Officer upon receiving any animal must make a complete registry, entering the breed, color, sex, ~~and whether licensed~~, if such information can be obtained safely. ~~If licensed, the Animal Control Officer must enter the name and address of the owner and the number of the license tag.~~ If the animal bears no identification which reasonably reveals its ownership, the Animal Control Officer shall impound the animal in the pound for a period of at least ~~seven~~ five days. Immediately upon impounding an animal, reasonable efforts shall be made to notify the owner and inform the owner of the animal's confinement and the procedures for release of the animal to the owner. Any animal impounded, with the exception of a potentially dangerous dog or dangerous dog or a dog that has inflicted substantial or great bodily harm upon a person, may be reclaimed by the owner within ~~seven~~ five days after such impoundment. Before the owner shall be permitted to recover possession of the animal, the owner shall pay the city all required fees and costs of impoundment. An animal that is not redeemed by its owner within ~~seven~~ five days after impounding may be euthanized and disposed of in a sanitary manner by the Animal Control Officer.

Section 3. Section 92.13 of the Brooklyn Park City Code is amended to read as follows:

**§ 92.13 ENFORCEMENT.**

To enforce this chapter, the Animal Control Officer or a police officer may enter upon private property where there is reasonable cause to believe that an animal is on the premises and does not have the proper identification ~~licensed~~ as required by ordinance, or that there is an animal on the premises which is not being kept, confined, or restrained. ~~The owner must produce for inspection the owner's animal license receipt when requested to do so by such officer.~~

Section 4. Section 92.19 of the Brooklyn Park City Code is amended to read as follows:

**§ 92.19 REDEMPTION.**

(A) An animal may be redeemed from the pound during the hours set forth by the requirements of Minnesota Statutes, by the owner upon paying the following fees and charges:

~~—(1) The license fee for the dog or cat if the license has not previously been obtained.~~

~~—(2) The late license penalty, in the amount set by the Council, where a license has not been obtained within the required time.~~

~~(3) (1) Providing proof of current rabies vaccination.~~

~~(2) The boarding fee in the amount set by the Council from time to time.~~

~~—(4) (3) An impounding fee in the amount established by the Council.~~

~~—(5) (4) Any fees incurred by the city for required treatment of the animal.~~

~~—(6) (5) If the owner of any impounded animal is unable to get to the city offices during normal working hours to pay the redemption fees, the Animal Control Officer is authorized to accept after hours or on weekends or holidays, a deposit in the amount equal to or greater than the highest fee amount that would be expected for the impound in question. This deposit must be presented to the Licensing Division on the next business day. The animal owner may then return to the city offices at their earliest convenience to receive any refund due, which is the difference between the deposit and the actual fees due. The License Division The City will also add a fee as established by the City Council for any services rendered when the officer is required to extend services in the following cases:~~

~~(a) Beyond regular office hours.~~

~~(b) At times when he or she is not regularly on patrol.~~

~~(c) If the city incurs additional expenses for any additional services.~~

(B) This section does not require the pound keeper or the Animal Control Officer to extend services other than during regular business hours unless it is reasonably convenient for those persons to provide those services.

Section 5. Section 92.25 of the Brooklyn Park City Code is amended to read as follows:

**§ 92.25 POTENTIALLY DANGEROUS DOGS.**

(F) *Removal of potentially dangerous dog classification.* A dog determined to be a potentially dangerous dog may be evaluated by a professional animal behaviorist. The owner may provide to the city ~~at the time of the license~~ a report by such animal behaviorist. If the report states that the dog has been rehabilitated, the dog may no longer be classified as potentially dangerous and is no longer subject to the requirements of this section.

Section 6. Section 92.26 of the Brooklyn Park City Code is amended to read as follows:

**§ 92.26 DANGEROUS DOGS.**

(A) *Registration.* Any person who has a dog that has been determined to be a dangerous dog pursuant to this code or pursuant to M.S. § 347.50, Subd. 1, must register the dog as a dangerous dog with the city, pay an annual fee ~~in addition to the dog license fee~~, and meet all the other requirements provided for in M.S. § 347.51, Subd. 2.

(B) Owners of dogs designated as dangerous must affix an additional tag to the dog's collar identifying the dog as dangerous and containing the dangerous dog symbol as further set forth in M.S. § 347.51.

Section 7. Section 92.32 of the Brooklyn Park City Code is repealed.

Section 8. Section 92.35 of the Brooklyn Park City Code is amended to read as follows:

**LICENSING**

**§ 92.35 ~~LICENSE REQUIRED~~ IDENTIFICATION AND VACCINATION.**

It is unlawful to own, harbor, keep, or have custody of an animal over six months of age within this municipality, ~~unless a current license without an identification tag on them for the animal has been obtained and unless~~ the animal has a current vaccination against rabies with an approved vaccine as determined by the current official "~~Compendium~~ Compendium of Animal Rabies Vaccines" published by the Conference of State Public Health Veterinarians and the Center for Disease Control of the Department of Health and Human Services. Every person convicted of a violation of this provision is guilty of a penal offense.

(A) *Identification.* All animals are required to have identification on them at all times. Identification includes veterinarian issued rabies tags, or any tags or collars with contact information and phone number(s) inscribed on it.

***Cross-reference:***

~~—Licensing and permit regulations; fees, revocation, and the like, see Ch. 110~~

Section 9. Sections 92.36, 92.37, and 92.38 are repealed.

Section 10. Appendix: Fee Resolution of the Brooklyn Park City Code is amended as follows:

### TABLE OF CONTENTS BY CODE SECTION

| <i>Section(s) of Code</i>                | <i>Title of Table</i> |
|--|-----------------------|
| §§ <del>92.37</del> and <del>92.38</del> | Animal Licensing Fees |

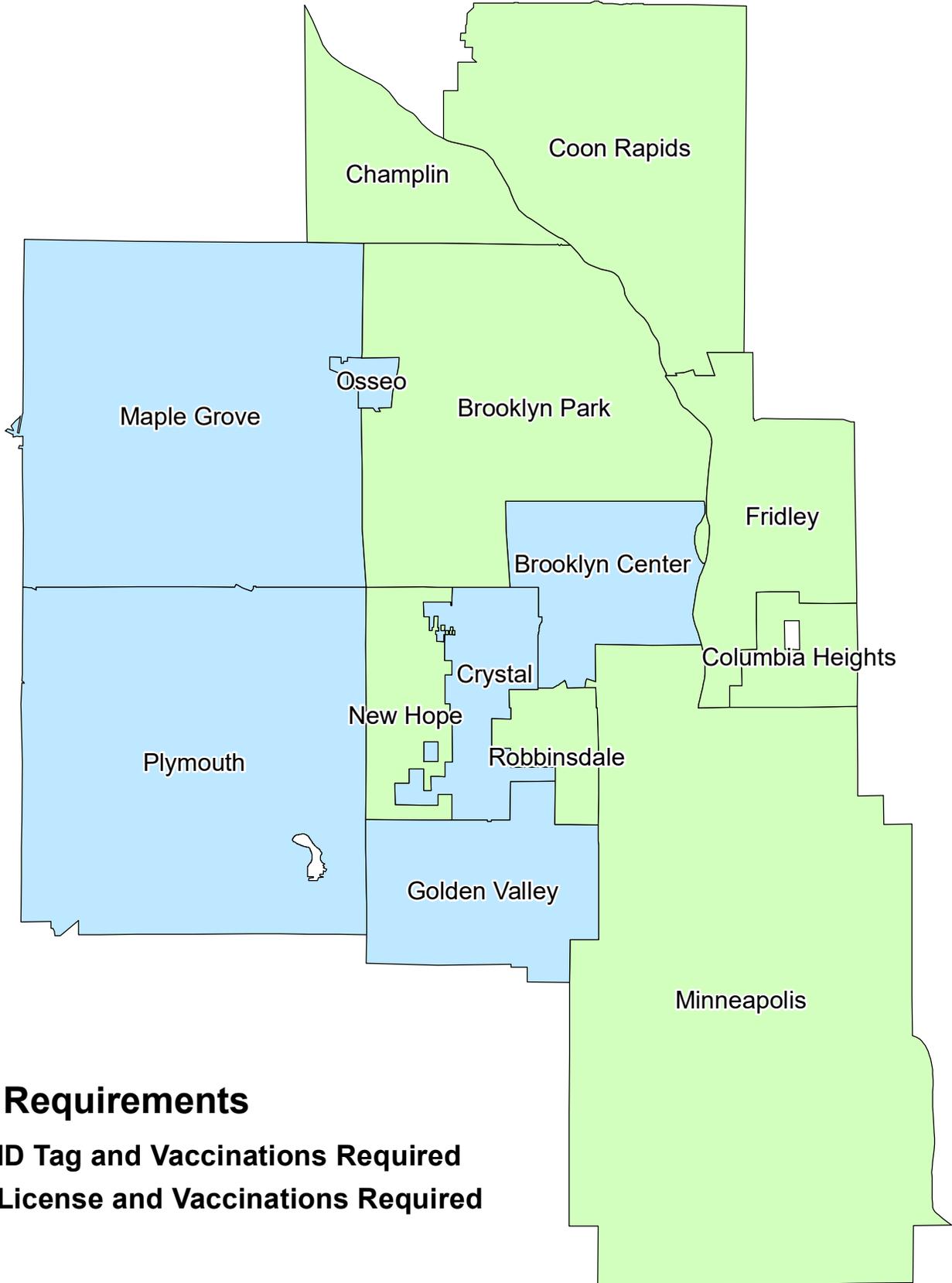
Section 11. Appendix: Fee Resolution of the Brooklyn Park City Code is amended as follows:

#### ANIMAL LICENSING FEES

(See §§ ~~92.37~~ and ~~92.38~~ of the Code)

| <i>Licenses</i>  | <i>Fees</i>              |
|--|--------------------------|
| Apiary registration  | \$75                     |
| <del>Spayed or neutered animals *</del>  | <del>\$10 per year</del> |
| <del>Animals not spayed or neutered *</del>  | <del>\$20 per year</del> |
| <del>Off leash dog exercise area daily fee (on-site)</del>   | <del>\$3</del>           |
| <del>Late license fee</del>  | <del>\$2</del>           |
| <del>Duplicate tag, if lost or stolen</del>  | <del>\$1</del>           |
| <del>Board fee for each day an animal is impounded **</del>  | <del>\$31</del>          |
| <del>Impounding fee **</del>   | <del>\$20-\$50</del>     |
| <del>—Second impounding fee for an impoundment within a 12 month period **</del>                                     | <del>\$30</del>          |
| <del>—Third impounding fee for an impoundment within a 12 month period **</del>                                      | <del>\$40</del>          |
| <del>—Fourth and subsequent impounding fee within a 12 month period</del>  | <del>\$50</del>          |
| Registration of dangerous dog  | \$200                    |
| Registration of potentially dangerous dog  | \$50                     |
| Appeal of dangerous dog/potentially dangerous dog designation  | \$50                     |
| Warning sign   | \$15                     |
| Warning tag  | \$5                      |
| <del>*All annual animal licensing fees are for the duration of rabies vaccine effectiveness.</del>                   |                          |
| ** All impound and board fees shall be paid in cash <u>or credit</u> . Personal checks will not be <u>accepted</u> . |                          |

# City Comparison for Pet Licenses



## City Requirements

- ID Tag and Vaccinations Required
- License and Vaccinations Required

## MEMORANDUM

**DATE:** October 1, 2019

**TO:** Jay Stroebel, City Manager

**FROM:** Jason Newby, Inspections & Environmental Health Manager  
Kim Berggren, Director of Community Development

**CC:** LaTonia Green, Finance Director  
Craig Enevoldsen, Police Chief  
Jody Yungers, Rec and Parks Director

**SUBJECT: Pet Licensing**

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The purpose of this memo is to provide an update on the continuous improvement project related to pet licenses along with associated recommendations.

Recently, staff discussed the possibility of moving the administration of pet licenses to the Rental & Business Licensing Division in Community Development. Prior to taking on this work, a thorough review of the current process used to administer pet licenses was completed. The first step in our process review was to identify key stakeholders. Representatives from Finance, Police, Community Development, and Recreation & Parks participated in this project. The organization - PUPs (Pets Under Police Security) was also identified as a stakeholder that could play an integral role if adjustments are made to this process.

### Key Findings

**Few pets are licensed.** Most residents choose not to license their animals. It is estimated less than 5% of pets in Brooklyn Park are currently licensed. The number of pet licenses has declined each year since 2012 – except for the year the dog park opened in 2013.

**Other cities do not license pets.** Multiple cities are no longer licensing animals. Most cities are adopting code language requiring identification tags and current vaccinations but are no longer requiring a city-issued license.

**Pet licensing is cumbersome to administer.** The administration of the pet license is staff intensive. While staff estimates the current fee structure allows the City to cover its costs in issuing the license, this work takes us away from other city priorities. Also, given the limits of the City's software programs, it is difficult to deliver quality customer service during the issuance of the license and renewal process.

**Licenses have limited connection to dog park users.** The license is currently linked to the use of the dog parks, but this is not enforced and not a deterrent for unlicensed animals from using the dog park.

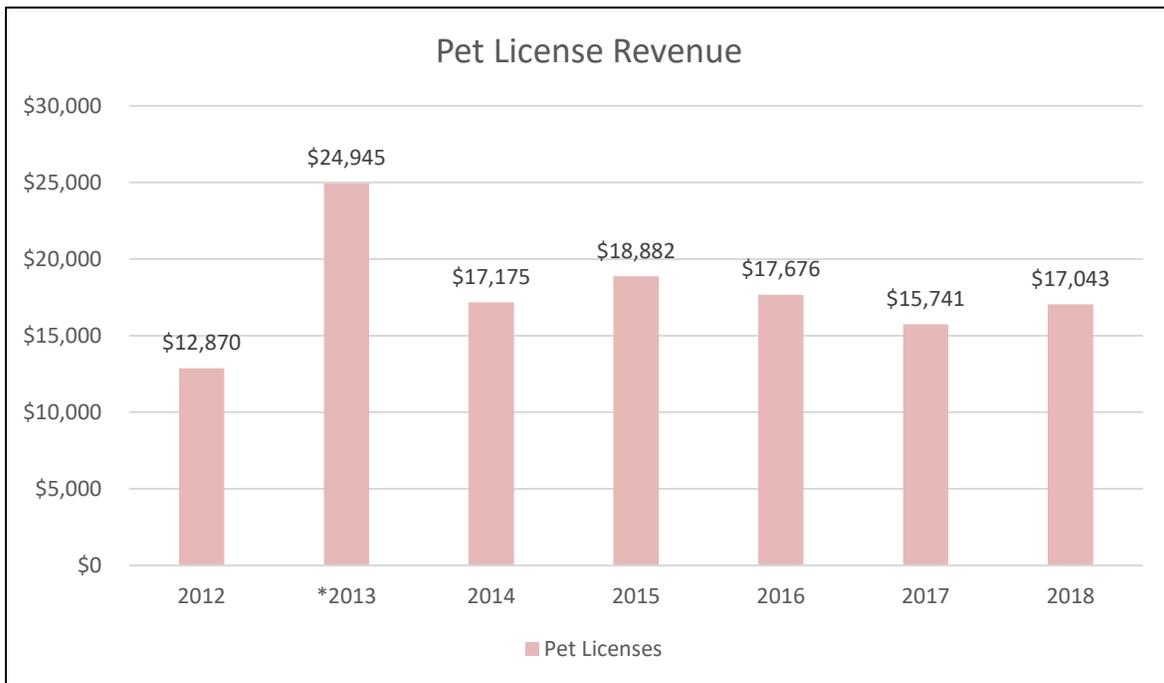
**Promotion of vaccination.** Staff believes the intent of the license in the original ordinance (1972) was to ensure animals were vaccinated. Staff recommends amending the City Code to continue to require vaccinations. This law can be enforced regardless if a license is issued. Responsible owners who currently get a pet license will continue to vaccinate their pets, therefore the license is unlikely to promote a change in behavior of other pet owners.

**Impounding of pets.** Staff assumed that having a license aided in returning stray animals home, but most impounded animals are not licensed and even if they are, the license is not used to return the animal home. The license only has an ID number and police staff do not have access to the licensing database. In 2018, only 161 of 330 animals were returned to owner from impoundment. Only 4 of 330 impounded animals had a pet license.

**What recommendations does the project team have for the City Council?**

- Update the ordinance to require pet identification tags and vaccinations and remove license requirement (Maple Grove model)
- Alternatives to pet licenses can be used to manage dog park usage. Park passes could be administered by Recreation and Parks or Three Rivers Park District uses an online pass for their dog parks.
- Promote identification tags, microchips, and current vaccinations through city, local, and social media outlets
- Evaluate the cost of adding microchip readers back into the squad cars.
- Promote animal owners to microchip and/or ID tag their animals to assist police in returning animals home instead of bringing them to PUPs.

Not included in this memo is the process used for dangerous/potentially dangerous dog registration. This process is currently administered at the Police Department in a separate database.



| Pet Licenses |                           |                              |           |
|--------------|---------------------------|------------------------------|-----------|
| 2018         | Expenses                  | Revenue                      | Total     |
|              | \$14,000 (administration) | \$17,043                     | +\$3,043  |
| Impounds     |                           |                              |           |
| 2018         | Expenses                  | Revenue                      | Total     |
|              | \$52,692                  | \$19,614 (reclaimed animals) | -\$22,035 |

LOCAL

# No license, no problem: More cities eliminating pet licenses

Growing number of cities in the metro area are eliminating the requirement

By Erin Adler (<http://www.startribune.com/erin-adler/195633361/>) Star Tribune |

NOVEMBER 5, 2018 — 12:12PM

From Burnsville to Crystal, many cities in the metro area no longer require residents to obtain pet licenses, calling the practice out-of-touch in an age when rabid dogs rarely roam and people have other ways to find their missing pets.

"What I've seen is some cities finding it is more of a headache ... than it is a benefit," said Graham Brayshaw, head veterinarian for the Animal Humane Society in Golden Valley.

The latest municipalities to drop pet licenses include Mound, in 2016, and Orono, in 2017. The Crystal City Council in August informally decided to end licensing, and Burnsville officials agreed to do so at a work session last month (but likely won't vote on it until next year).

The main reason, say city officials, is mass noncompliance. Few pet owners keep licenses up to date, if they get them at all.

"We're only penalizing people who are rule followers," said Jeff Kolb, a Crystal City Council member, adding that those individuals probably already are responsible pet owners.

Pet licenses once purported to ensure that animals were vaccinated and could be easily reunited with their owners if lost. Yet, out of 8,000 households, only a few hundred Crystal residents have licenses. The fees probably don't even cover administration costs, Kolb said.

"We're not out there enforcing," said Catherine Pausche, Mound city finance director.

Orono Police Chief Correy Farniok said that social media and microchips combine to make a highly effective way to locate lost pets, recalling a Facebook post by an officer on a missing dog that was shared 4,000 times in an hour.

Ideas about pets have changed, said Burnsville City Council Member Cara Schulz. People used to keep them outside, let them run loose and brought them to the vet only rarely.

"Now your pets sleep on the bed with you," she said.

Some cities say that licenses still serve a purpose. Minneapolis' website highlights the revenue they generate, which pays for the sheltering and feeding of lost pets.

## Changing practices

The practice of licensing pets emerged in the 1950s in rural areas as a way to figure out who they belonged to, Schulz said. During a rabies scare in the 1970s, licenses were a means to show that the pets were up-to-date on vaccinations.

Minnesota law doesn't require cities to license pets. That's up to municipalities, which can enact ordinances specifying who must get a license, for what period and for how much.

Some cities require dogs, cats and other small pets to be licensed, while others license only dogs. Delano charges nothing for a license, while Minneapolis charges \$75 to license an unsterilized pet.

While some cities, like Bloomington, offer lifetime licenses with a one-time fee, others

GALLERY

GRID

1/6



DAVID JOLIS • STAR TRIBUNE

Smaller dogs bounded toward a fence at Alimagnet Dog Park in Burnsville on Friday to check out a passing Doberman pinscher on the gallery. A young golden retriever pup seemed a bit spooked by a small dog that had come to mingle at Alimagnet dog park Friday, Nov. 2, 2018, in Burnsville, MN.

want residents to renew every year or two.

But Kevin Toskey, a research attorney for the League of Minnesota Cities, said there was "definitely a trend happening with [cities] not enforcing or repealing pet licensing."

There are a variety of reasons. Technology, including dog facial recognition software and microchips, is changing how we find lost animals, said Brayshaw. Microchips are now implanted between the shoulder blades of every dog at the Animal Humane Society and by many rescue organizations.

About a third of the pets belonging to the 85 million U.S. pet-owning households are microchipped, said Kate Vossen, a spokeswoman for HomeAgain, a popular microchip company. HomeAgain has reunited more than 2 million pets with their owners, she said.

City officials and experts said having pets wear a collar with identification and vaccination tags is still the most effective way to bring them home.

As for vaccinations, rabies is far less common today than in the past, Schulz said. Owners already must present vet records to take out pet insurance or enroll in doggy day care. Farniok said that when a dog bite is reported, police go directly to the owner to ask about vaccinations rather than checking city records.

### **Making a statement**

The Minneapolis city website says that if pets are licensed, they are three times more likely to be returned if missing. In some cities, licensing fees help offset the costs of dog parks, and a license is needed to visit them.

Not every pet has a microchip, and microchips aren't infallible, Brayshaw said. He added that "dead-end" microchips, which lack current contact information for owners, are common.

Brayshaw said there are more important animal issues to focus on than licensing, though he wondered if licensure and vaccination might be more effective if mandated by counties or states rather than cities.

Few suburban pet owners recently interviewed said they had pet licenses. Some said they didn't know they existed, and others didn't see the point.

Lisa Bernier-Perleberg said she's lived in Crystal for 16 years but never purchased a license for her pets. "We always figured if we did get caught, it would be easier to just pay a fine," she said.

As her two Jack Russell terrier mixes, Fred and Wilma, frolicked at Burnsville's Alimagnet Dog Park, Mary Dean said she thought a dog license was "more paperwork than it's worth." Dean, of Apple Valley, said she might change her mind if license revenue went to animal shelters.

A few pet enthusiasts said there might be value in licensing pets. Amanda Waltz said she went 13 years without getting a dog license, but she wondered if having one would have helped when her dog nipped a kid on a bike.

"Perhaps if licensed, [the dog] wouldn't have been slapped with a potentially dangerous animal label," said Waltz, of Crystal.

Kurt Martinson of Burnsville has a license for his mini Labradoodle, Wilma.

"I'm kind of civic-minded," he said. "If you're going to take on the responsibility of a dog, \$10 isn't a big deal. It makes a statement."

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**Erin Adler** is a suburban reporter covering Dakota and Scott counties for the Star Tribune, working breaking news shifts on Sundays. She previously spent three years covering K-12 education in the south metro and five months covering Carver County.

Erin.Adler@startribune.com 612-673-1781 erinStrib

# City of Brooklyn Park Request for Council Action

|                        |  |                                |   |
|------------------------|--|--------------------------------|---|
| <b>Agenda Item:</b>    | 7.4  | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | General Action Items   | <b>Originating Department:</b> | Community Development                                   |
| <b>Resolution:</b>     | N/A  | <b>Prepared By:</b>            | Michelle Peterson,<br>Neighborhood Health<br>Supervisor |
| <b>Ordinance:</b>      | FIRST READING  |                                |   |
| <b>Attachments:</b>    | 5  | <b>Presented By:</b>           | Michelle Peterson                                       |
| <b>Item:</b>           | FIRST READING of an Ordinance to Amend Chapter 92 and Chapter 152 of the City Code to Allow the Keeping of One Pot-Bellied Pig |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT ON FIRST READING AN ORDINANCE AMENDING CHAPTERS 92 AND 152 OF CITY CODE PERTAINING TO THE KEEPING OF ONE POT-BELLIED PIG.

## Planning Commission Recommendation:

At the September 11, 2019 Planning Commission meeting, the Planning Commission considered the proposed amendments to Chapter 152 of City Code. The Planning Commission recommended approval of the proposed ordinance amendments for sections of the zoning code with a request to amend Chapter 92 to include a registration process for the animal type being considered.

## Overview:

At the September 23, 2019 City Council meeting, the first reading of the proposed ordinance amendments to allow four chickens and one pot-bellied pig did not pass. During this discussion with the City Council and previously with the Planning Commission, most of the concerns centered around chickens. However, allowing one pot-bellied pig with a registration seemed to be the preferred approach for this animal type.

In 2018, the Brooklyn Park City Council was approached by a resident regarding her pet pot-bellied pig and requested the code be changed to allow her to keep her pet. She provided a petition with signatures from her neighbors and a Change.org on-line petition as well as pot-bellied pig information. At the October 7, 2019 City Council work session, Environmental Health staff requested direction on how to proceed with the enforcement of our case related to this pot-bellied pig. Environmental Health staff proposed bringing back an ordinance for the keeping of one pot-bellied pig per residential lot with registration for consideration.

## Staff Recommendation:

Staff recommends approval of the Code Amendments as presented.

## Budgetary/Fiscal Issues:

Staff thinks that the proposed ordinance can be implemented without an impact to the budget. The number of registered pot-bellied pigs will likely be limited and can therefore be accommodated with current staff using a process similar to the bee registration process but without the field inspection component.

**Primary Issues/Alternatives to Consider:**

1. Approve the code amendments as presented.
2. Approve the code amendments with modifications.
3. Deny the code amendments keeping the existing regulations in place.

**Attachment:**

- 7.4A ORDINANCE
- 7.4B POT-BELLIED PIG FACT SHEET
- 7.4C CITY COMPARISON CHART
- 7.4D PLANNING COMMISSION MEETING MINUTES SEPTEMBER 11, 2019
- 7.5E COMMUNITY ENGAGEMENT MEMO

## ORDINANCE #2019-

ORDINANCE AMENDING CHAPTERS 92 AND 152 OF CITY CODE  
PERTAINING TO THE KEEPING OF ONE POT-BELLIED PIG

~~Text with strikeout is proposed for deletion~~

Underlined text is proposed for insertion

The City of Brooklyn Park does ordain

Section 1. The definition of "animal" in Section 92.01 of the Brooklyn Park City Code is amended as follows:

**§ 92.01 DEFINITIONS.**

**ANIMAL.** Cats, dogs, pot-bellied pigs, domestic animals and wild animals, and crossbreeds with wild animals not customarily maintained at all times in an enclosure cage within a dwelling.

Section 2. Chapter 92 of the Brooklyn Park City Code is amended by adding the following sections:

**POT-BELLIED PIGS****§ 92.60 DEFINITIONS**

**POT-BELLIED PIG.** A small breed of domesticated pig (*Sus scrofa domesticus*) kept as a pet originating from countries in southeast Asia and having a straight tail and potbelly weighing under 200 pounds.

**§ 92.61 Pot-Bellied Pigs Limited**

(A) No person shall keep, harbor, maintain or allow to be kept any pot-bellied pig in the city without an approved registration.

(1) One pot-bellied pig is allowed per residential lot

(2) The application for registration must be upon a form provided by the city. All required information must be completed.

(B) Registrations issued under this section may be denied, revoked or non-renewed due to any of the following:

(1) The keeping of pot-bellied pigs in a manner that constitutes a nuisance to the health, safety or general welfare of the public;

(2) Fraud, misrepresentation, or a false statement contained in the registration application or during the course of the registered activity;

(3) Any violation of the applicable provisions in this chapter.

(C) The appeal and hearing procedures set forth in Section 92.58(B) and (C) apply to the registration of pot-bellied pigs.

Section 3. Section 152.243(B) of the Brooklyn Park City Code is amended to read:

**§ 152.243 ADDITIONAL REGULATIONS FOR PERMITTED USES.**

(B) *Keeping domestic and farm animals, pot-bellied pigs, and beekeeping on residential properties.*

(1) Farm animals may be kept on parcels five acres or larger at the rate of one animal unit per acre.

(2) Boarding or breeding for commercial purposes may not be permitted in residential districts.

(3) The keeping of animals must be in conformance with all other sections of the City Code.

(4) Beekeeping is allowed in all residential districts in compliance with the applicable provisions of Chapter 92 of this code.

(5) The keeping of no more than one (1) pot-bellied pig is allowed only in the following residential districts: R-1, R-2, R-2A, R-2B, R-3, R-3A and R-4.

# Potbellied Pigs



The City of Brooklyn Park is exploring a code change to allow potbellied pigs and other animal types at residential properties.



*Note: Not every household will want to own a potbellied pig.*

## Did you know?

Pigs are currently allowed in Brooklyn Park if you have a property larger than 5 acres.

## Did you know?

2019 is the Year of the Pig on the Chinese Zodiac.

## Under the proposed change

- Only 1 potbellied pig would be allowed per household.
- Potbellied pigs would be required to be licensed, just like dogs.
- They must be spayed or neutered.
- Potbellied pigs require daily care.
- Pens and shelters must be kept clean and manure properly disposed of.

## Things to Know

- Training a potbellied pig is like training a puppy.
- They can be trained to use a litter box.
- They look different than a “regular” pig. Potbellied pigs have longer snouts, straighter tails, and more upright ears (and a potbelly).
- Potbellied pigs need their vaccinations like any other pet.
- A potbelly pig can live to be 20 years old.
- Hoof trimming is needed 1-2 times per year. Tusk trimming also may be required.
- Potbellied pigs are considered full grown at about 3 years old and can weigh anywhere from 90-200 pounds. In comparison, farm pigs can be over 600 pounds.
- They need regular exercise just like people.

**Contact: [Michelle.Peterson@brooklynpark.org](mailto:Michelle.Peterson@brooklynpark.org) (763-493-8116)**

This information is intended only as a general guide. Other codes and ordinances may apply. You can reference the city ordinances on the city's website: [www.brooklynpark.org](http://www.brooklynpark.org)

| City            | Chickens | Pigs | Goats | Notes  |
|-----------------|----------|------|-------|--|
| Brooklyn Park   | *yes     | *yes | *yes  | *Chickens, pigs & goats are currently defined as farm animals. Farm animals are currently allowed, but only on parcels 5 acres or larger.  |
| Brooklyn Center | yes      | no   | no    | Recently passed ordinance allowing chickens in fall 2018. 6 hens allowed.  |
| Champlin        | *yes     | *yes | *yes  | Farm animals allowed on parcels zoned for agriculture  |
| Coon Rapids     | yes      | no   | no    | Max 4 hens per household. Chickens need written consent from landlord if a rental or HOA if applicable   |
| Crystal         | yes      | yes  | no    | Pot-bellied pigs (1 allowed) and chickens (4 max) can only be in single family detached homes. Must be for the owners personal enjoyment (not being raised for slaughter). Must follow licensing procedure for dogs/cats for a pig |
| Edina           | yes      | no   | no    | Max 4 hens per household   |
| Fridley         | yes      | *yes | *yes  | Maximum 6 hens per property and must submit site plan and annual license required. The run and coop have to follow normal building/planning codes. Must provide at least 1 acre of open, unused land for goats or pigs             |
| Maple Grove     | *yes     | *yes | *yes  | All allowed on parcels zoned for agriculture & R-1 with a head unit system. Goats and pigs must be on at least 1.5 acres of land. Chickens require at least 1 acre of land.  |
| Minneapolis     | yes      | no   | no    | Different tiers of license based on zoning and parcel size. Three tiers of licensing with lowest allowing 6 hens. Must have license for chickens. Citizen group working to get backyard goats allowed.                             |
| Minnetonka      | yes      | *yes | *yes  | Small farm animal (<100 pounds) can have 5 per .5 acre. Large farm animal (>100 pounds) can have 1 per acre. Land must be open and usable for pasture. Chickens allowed at a rate of 1 per 1/10 an acre.                           |
| New Hope        | yes      | yes  | no    | Pot-bellied pig (1 max) and chickens (3 max) only in single family detached homes. Follows licensing for dogs/cats   |
| St. Paul        | yes      | yes  | yes   | Must submit site plan for review and approval. Animal control does a yearly inspection on all registered "other" animals to make sure initially agreed upon site plan, feeding, housing, and waste removal is still taking place.  |

\* Zoning/lot size restrictions

**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION**  
**Regular Meeting – September 11, 2019**  
Unapproved Minutes

**1. CALL TO ORDER**

The meeting was called to order at 7:00 PM.

**2. ROLL CALL/PLEDGE OF ALLEGIANCE**

Those present were: Commissioners Hanson, Herbers, Husain, Kiekow, Mersereau, Mohamed, Morton-Spears, Vosberg; Council Liaison West-Hafner; Senior City Planner Larson; Planning Director Sherman; Planning Program Assistant Davis; Neighborhood Preservation Specialist Peterson; Environmental Health Manager Newby.

Those not present were: Commissioner Kisch.

**6. PUBLIC HEARING**

**E. “Chickens & Pigs” (City of Brooklyn Park) – Review of Ordinance to Amend Chapter 152 to allow the keeping of chickens and pot-bellied pigs.**

Neighborhood Health Supervisor Peterson introduced the request to review the animal ordinance to allow chickens and pot-bellied pigs with certain restrictions. She discussed neighborhood engagement and compared Brooklyn Park’s ordinance to nearby cities.

Commissioner Chair Hanson opened the public hearing.

Rebecca Buckley, 3501 Daylily Ave N, stated that the pot-bellied pig is hers and she made the request. She discussed how smart pigs are and what a great pet they are.

Seeing no one else approach the podium, Commissioner Chair Hanson closed the public hearing.

Commissioner Chair Hanson explained she wants something similar to the beekeeping process which requires education, inspection, permit process, and neighbors are notified. She has concerns there is not enough Code Enforcement staff for this to be realistic. She asked where licensing of chickens would be addressed.

Neighborhood Health Supervisor Peterson explained licensing requirements will be addressed in Chapter 92, which is not part of the zoning code.

Commissioner Chair Hanson asked for a friendly amendment to add registration before it goes to Council.

Commissioner Mersereau acknowledged that goats were discussed but are not included in the ordinance change. She agreed with Commissioner Chair Hanson that there should be a licensing component.

Environmental Health staff explained there was not enough public support.

Commissioner Vosberg agreed with the necessity for permitting and licensing of chickens.

Commissioner Kiekow was curious why only hens were allowed. He asked what will happen if there are too many.

Neighborhood Heath Supervisor Peterson explained staff will follow the complaint procedure. The language in the ordinance allows three violations.

Commissioner Kiekow asked who would get rid of the chickens.

Neighborhood Heath Supervisor Peterson explained this would be coordinated with the Police Department.

Commissioner Mohamed supports having all animal types. He thought registration for hens is unnecessary and prohibitive. He pointed out that some people are keeping hens already.

Commissioner Husain believes registration online would be best.

MOTION MERSEREAU, SECOND HUSAIN TO RECOMMEND APPROVAL OF ORDINANCE #2019-\_\_\_ AMENDING SECTIONS 152.243, 152.263 AND 152.292 OF CITY CODE PERTAINING TO THE KEEPING OF CHICKENS AND POT-BELLIED PIGS WITH A FRIENDLY AMENDMENT TO REQUIRE A REGISTRATION PROCESS FOR CHICKENS.

*MOTION CARRIED 7-1. COMMISSIONER KIEKOW VOTED NAY.*



## Chickens, Pigs and Goats community engagement process summary

### Background

At the March 4, 2019 City Council work session Environmental Health staff presented on the city's ordinances related to chickens, pot-bellied pigs and goats. The City Council gave the direction for staff to:

- Engage the community to ask if they are for or against this ordinance change
- Engage supporters, uninformed and misinformed community members
- Inform community with fact sheets
- Remind people that nuisance animals would still be treated as nuisances

### Engagement Methods and Response

After a stakeholder and racial equity analysis, staff decided to use these engagement methods to inform and consult with the community:

- 1) Fact sheets for each animal type
- 2) Survey that was available online and in-person.

The fact sheets can be found here: <https://www.brooklynpark.org/residents/pets-and-animals/>

### Survey questions

Are you in favor of the city allowing residents to have up to 4 chickens (hens only)?

Are you in favor of the city allowing residents to have 1 potbellied pig (requiring a license)?

Are you in favor of the city allowing residents to have 2 small breed goats (requiring a permit)?

Is there anything else you would like the City Council to know or consider about possibly changing the ordinances around these or other animals?

### Events/Locations of in-person survey

|   |                         |
|---|-------------------------|
| Census meeting                                  | April 23                |
| BP Community Assembly (Homeowners Associations) | April 25                |
| Sierra Leone Nurses Association Health Fair     | April 26                |
| Spring on the Farm                              | May 18                  |
| Tater Daze                                      | June 14-15              |
| Pop up tabling at Dragon Star                   | June 28                 |
| Block Captains event                            | May 10                  |
| Walk the Park                                   | June 1                  |
| City Hall on the Go                             | June 27 – Hartkopf Park |

|                     |                          |
|---------------------|--------------------------|
| City Hall on the Go | July 25 – Oak Grove Park |
| City Hall on the Go | August 15 – Norwood Park |
| City Hall lobby     | June                     |

Online survey respondents: 1893

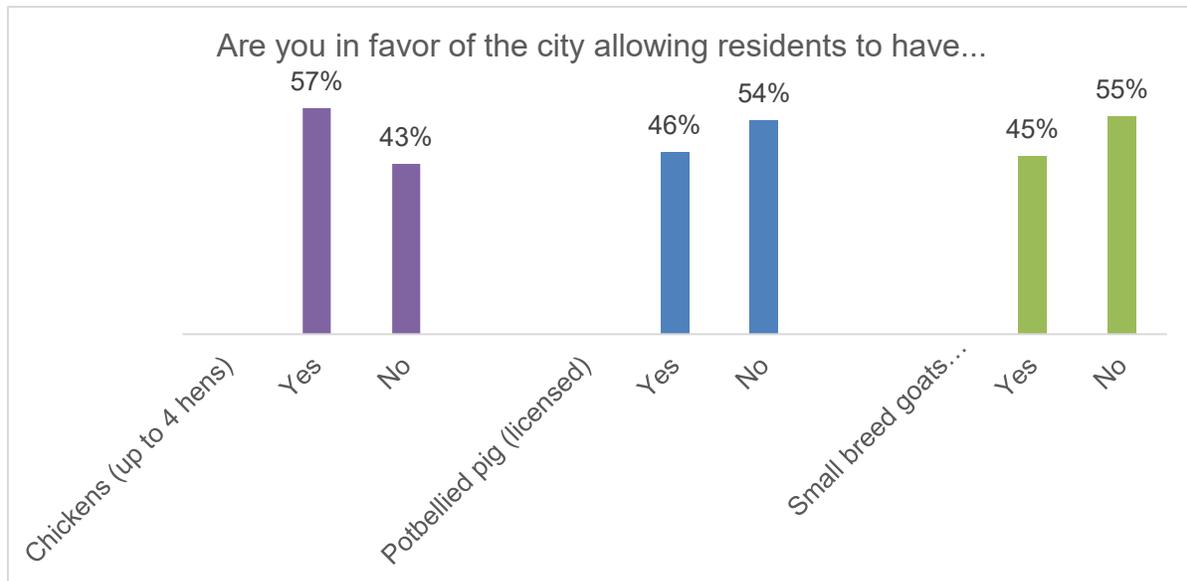
In-person survey respondents: 353

**2246** total respondents

Approximately **16% of the surveys were done in person.**

**Survey Results**

Here are the combined responses from the survey (both online and in-person)\*:



We also asked an open-ended question about whether there was anything else the City Council should know about possibly changing the ordinances around these or other animals.

\*This was not a statistically significant survey as it was not a random representative sample. Residents opted in to take it so the results only show those residents' opinions.

**Comments in favor:** Of the 1099 responses, 14% were positive. People were in favor of ordinance changes and cited things like wanting eggs from chickens, goats and pigs as great pets, and other neighboring cities already allowing these animals.

Some residents expressed interest in allowing animals beyond those we surveyed on. Note: bees are already allowed in the city.

|         |    |
|---------|----|
| Pigeons | 17 |
| Bees    | 9  |

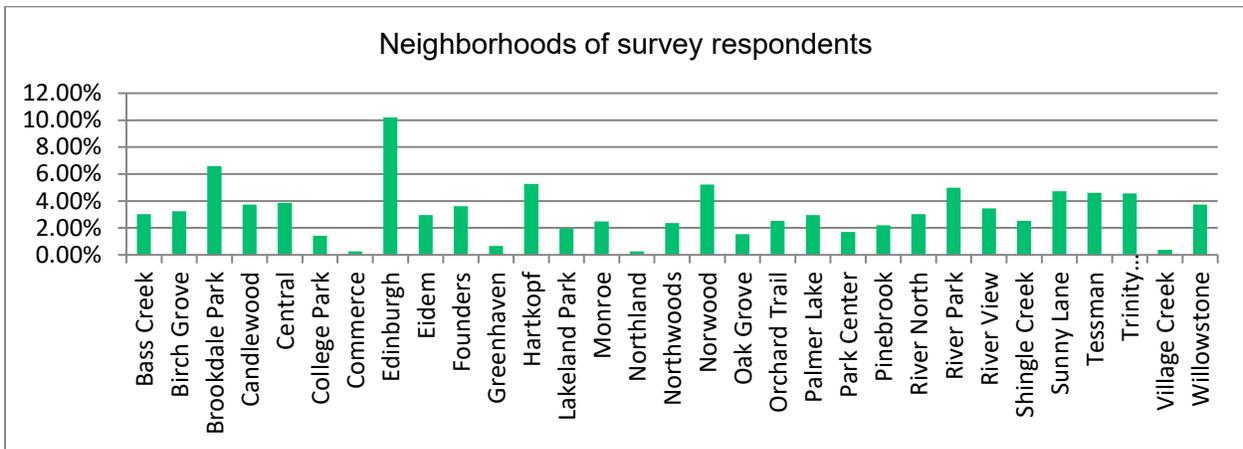
|                |   |
|----------------|---|
| Mini horses    | 3 |
| Rabbits        | 3 |
| Teacup pigs    | 1 |
| Sheep          | 1 |
| Quails         | 1 |
| Llamas/alpacas | 1 |
| Lion           | 1 |
| Goose/ducks    | 1 |

**Comments in opposition:** 25% of the comments were in opposition to an ordinance change. Some of the reasons were that they did not think these animals were appropriate in suburban yards, concern for smell and noise, fear that neighbors would not follow the ordinances, and concern for neighborhood safety.

**Comments about requirements:** There were a number of suggestions for administration of the ordinance if it should pass. These included requirements for protecting the animals from foxes and coyotes, a courtesy note that animal owners could share with their neighbors, keeping license fees reasonable, annual check-ins with city staff, 1-2 year trial period, and a short renewal date for licensees who are out of compliance with city ordinances.

**Neighborhoods of online survey respondents**

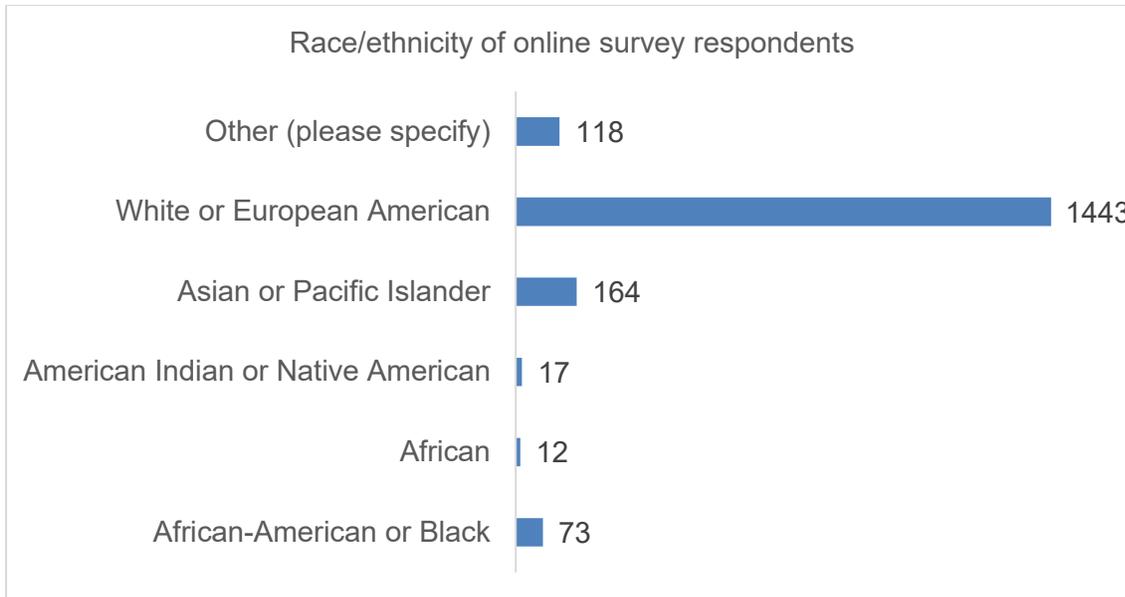
For the online survey, we asked which neighborhoods the respondents lived in and the Edinborough neighborhood accounted for over 10% of responses. Note: Homeowners associations can make their own rules regarding animals.



**Race/ethnicity of online survey respondents**

We did not ask about race and ethnicity for the in-person surveys, but 78% of the online survey respondents identified as white or European American. Therefore, white residents were over-represented since 46% of our residents identify that way. Anecdotally we know that many of the in-person respondents were people of color, which is why we chose to do engagement that way.

We asked about Hispanic/Latinx separately as it is an ethnicity, not a race. Only 1.6% of online respondents identified as Hispanic or Latinx, which is less than the approximately 6% of our population.



#### **How community feedback will be used:**

This community engagement summary will be shared with the Planning Commission and the City Council to inform their decisions on possibly changing the city's animal-related ordinances.

#### **Questions about the community engagement process?**

We are always looking to improve our community engagement processes and include more voices in the conversation.

Please feel free to contact Josie Shardlow, Community Engagement Manager

[Josie.shardlow@brooklynpark.org](mailto:Josie.shardlow@brooklynpark.org) or 763-493-8388

# City of Brooklyn Park Request for Council Action

|                        |  |                                |   |
|------------------------|--|--------------------------------|---|
| <b>Agenda Item:</b>    | 7.5  | <b>Meeting Date:</b>           | October 28, 2019  |
| <b>Agenda Section:</b> | General Action Items   | <b>Originating Department:</b> | Finance   |
| <b>Resolution:</b>     | X  | <b>Prepared By:</b>            | Coty Hemann, Sr. Accountant<br>Jason Newby, Code Enforcement<br>and Public Health Manager |
| <b>Ordinance:</b>      | N/A  |                                |   |
| <b>Attachments:</b>    | 3  | <b>Presented By:</b>           | LaTonia Green, Keith Jullie and<br>Jason Newby  |
| <b>Item:</b>           | Adopt Resolution for Proposed Special Assessments for Certain Delinquent Utility Bills, Weed Cutting Charges, Utility Invoices, Administrative Penalty Citations, Nuisance Abatement Charges, and Fire Inspection Fees |                                |   |

## City Manager's Proposed Action:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT RESOLUTION #2019-\_\_\_\_ LEVYING TAX FOR DELINQUENT UTILITY BILLS, WEED CUTTING CHARGES, UTILITY INVOICES, ADMINISTRATIVE PENALTY CITATIONS, NUISANCE ABATEMENT CHARGES, AND FIRE INSPECTION FEES.

## Overview:

Each year, the City has outstanding charges for utility bills, weed cutting, tree removal, utility invoices, administrative citations, nuisance abatement charges and fire inspection fees that the City is not able to collect from the property owner. The only action that can be taken to collect these charges is to assess the amounts in question and certify these charges to the property taxes of the property owners. Minnesota State Statute 44.075 Subd. 3 allows for the assessment of delinquent utility bills. Minnesota State Statute 429.101 allows for the assessment of delinquent weed cutting, tree removal, and nuisance abatement charges. The City Charter, Section 14.19, allows for the assessment of delinquent administrative citations. Minnesota Statute 336.012 allows for assessment of delinquent fire inspection fees. In addition, notices of this public hearing have been mailed to the affected parties.

For 2019, we have identified the following amounts for possible certification to the property taxes in 2020:

- 70 abatements totaling \$32,762.17
- 243 citations totaling \$38,600.00
- 3,745 utility accounts totaling \$1,811,642.54

At that public hearing October 14, 2019, the properties listed below contested their special assessments and staff was instructed to provide the City Council with additional information. Below are staff updates from those properties. Staff recommends dismissal of 9142 Brunswick Ave N property based on the case summary. Staff does not recommend any changes to the other five pending assessments. If payment is made or cancelled in any way, the account will be removed from the list before being certified.

### 6200 92nd Tr N – \$220 Property Maintenance

This case originated as a complaint regarding waste containers stored in public view. This property has a history with cases confirming violations of waste containers stored in public view. Previous citations have been issued and administrative hearings have been held imposing these fines. A citation was issued in the amount of \$220 for a repeat violation. The property was eventually brought into compliance on November 16, 2018. The case history is attached.

6016 72<sup>nd</sup> Ave N – Utility Bill

Utility Billing had normal business communication with the customer prior to the appeal to the Council. No service calls have been made to this property. Bills and water consumption appear to be reasonable and consistent. Utility Billing contacted the customer on 10/15/19. A payment plan was granted based on the customer's ability to pay, and the July and October 2019 penalties waived. The account history is attached.

7318 75<sup>th</sup> Cir N – Utility Bill

Utility Billing had normal business communication with the customer prior to the appeal to the Council. Utility Billing staff attempted to contact the customer multiple times, without success. No service calls have been made to this property. Bills and water consumption appear to be reasonable and consistent with slightly higher bills in the summer months. Partial payments have been made throughout the year. The account history is attached.

10115 Georgia Ave N – Utility Bill

Utility Billing had normal business communication with the customer prior to the appeal to the Council. The customer self-enrolled in the electronic billing option on 4/20/19. The email address was verified 4/20/19. The customer has not logged in to the account since enrollment and e-mail verification. Utility Billing staff attempted to contact the customer multiple times, without success. Bills and water consumption appear to be reasonable and consistent with slightly higher bills in the summer months. No payments have been received. The account history is attached.

5907 Garwood Rd N – Utility Bill

This is a rental property. The tenant appeared at the Council meeting. The customer was billed for high consumption on both the 12/1/18 and 3/1/19 bills. On 4/15/19, the tenant came in to discuss the high usage and stated that they had leaks at the property. The tenant stated that they would work to get the leaks repaired. A payment plan was granted, and penalties waived for both the December and March bills. A partial payment was received, and the remaining amount of the payment plan was in default. On 6/1/19, the customer was again billed for high consumption. The tenant called Utility Billing on 6/28/19 and stated that the repairs had been made. The tenant requested additional help to reduce the charges. Two work orders were completed to resolve the issue. The tiered rates were reduced to the 1st level for the 6/1/19 bill. Utility billing contacted the tenant on 10/15/19. A payment plan was granted based on the tenant's ability to pay, and the October 2019 penalties waived. They were advised to work with the landlord to make arrangements for the remaining amount that would be certified. The account history is attached.

9142 Brunswick Ave N – \$200 Property Maintenance

This case originated as a complaint regarding long grass and a portion of the driveway that was deteriorating. Staff conducted multiple inspections confirming violations and issued correction orders to the property owner. All violations were corrected, but the driveway remained and a citation in the amount of \$200 was issued for noncompliance. Staff worked with the property owner on a timeline to complete the repairs and connected them with a local organization for assistance. Once funds were secured, the entire driveway was replaced. The case history is attached.

The city will continue to receive and post payments on these accounts daily. Payments will be accepted up through 4:00 p.m. on November 14, 2019. Accounts paid by this date will be removed from the certification list. Accounts not paid by this date will be certified to Hennepin County. The amount certified includes the outstanding amount plus interest for (14) months at the rate of 4% PER annum, a \$35 administration fee added to their assessment, and a Hennepin County service charge of \$2.50.

New this year, an administrative fee was included on all accounts that received a notice of delinquent account. This was approved at the November 13, 2018 Council meeting.

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

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

**Attachments:**

7.5A RESOLUTION

7.5B UTILITY BILLING DOCUMENTATION

7.5C CODE ENFORCEMENT DOCUMENTATION

RESOLUTION #2019-

RESOLUTION LEVYING TAX FOR DELINQUENT UTILITY BILLS, WEED CUTTING CHARGES,  
UTILITY INVOICES, ADMINISTRATIVE PENALTY CITATIONS, NUISANCE ABATEMENT CHARGES,  
AND FIRE INSPECTION FEES

WHEREAS, pursuant to proper notice duly given as required by law, Council has met, and heard, and passed upon all objections to the proposed assessment for delinquent utilities, weed cutting, tree removal, utility invoices, administrative citations, nuisance abatement charges and fire inspection fees.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park:

1. That pursuant to Minnesota Statutes and the City Code of the City of Brooklyn Park, the delinquent utility bills, weed cutting charges, utility invoices, administrative penalty citations, nuisance abatement charges, and fire inspection fees shall be levied against the properties and collected as other taxes are collected, and remitted to the City of Brooklyn Park. All properties involved and the amounts to be certified are on file with the City Clerk.
2. That such proposed assessment, hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included with the exception of the house and garage roof tract of land is hereby found to be benefited by the delivered services in the amount of the assessment levied against it, and that each property shall have the entire amount, plus interest for (14) months at the rate of 4% PER annum, and a \$35.00 administrative fee added to their assessment, and a Hennepin County administration, service charge of \$2.50.
3. That the owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole or any part of the assessment on such property from the adoption of this resolution until November 14, 2019.
4. That the City Clerk shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax lists of the County, and such assessments shall be collected and paid in the same manner as other municipal taxes.

Utility Billing: 51780-006  
 Address: 5907 Garwood Rd N  
 Brooklyn Park, MN 55443

| Date       | Action  | Amount   | Notes   | Staff              |
|------------|---|----------|---|--------------------|
| 5/1/2013   | Account started                                   |          |   |                    |
| 09/11/2014 | Notification of Pending Lien Assessment           | \$648.04 | Letter Sent   | Finance Department |
| 9/8/2015   | Notification of Pending Lien Assessment           | \$259.96 | Letter sent   | Finance Department |
| 9/7/2016   | Notification of Pending Lien Assessment           | \$236.20 | Letter sent   | Finance Department |
| 9/8/2017   | Notification of Pending Lien Assessment           | \$433.36 | Letter sent   | Finance Department |
| 9/7/2018   | Notification of Pending Lien Assessment           | \$812.09 | Letter sent   | Finance Department |
| 11/19/2018 | Certify to Taxes                                  | \$812.09 |   | Finance Department |
| 12/1/2018  | Billed high consumption                           |          | 101,000 gal. billed. Previous year same quarter was 18,000  |                    |
| 3/1/2019   | Billed high consumption                           |          | 89,000 gal billed. Previous year same quarter was 16,000. This bill affects the future sewer charge           |                    |
| 4/15/2019  | Tenant at counter regarding high usage.           |          | Customer stated that there are leaks at the property and will get them repaired.                              | Melissa Stay       |
| 04/15/19   | Partial payment was received                      | \$604.38 |   |                    |
| 4/15/19    | Penalties waived for December bill                | \$60.45  |   | Melissa Stay       |
| 4/15/2019  | Payment plan granted to Tenant                    | \$328.19 | Payment plan due date of 5/31/19.   | Melissa Stay       |
| 4/20/19    | Penalties waived for March bill                   | \$38.86  | No penalties charged because of active payment plan.  |                    |
| 6/1/19     | Payment plan inactivated                          | \$328.19 | No further payments were made toward the payment plan   |                    |
| 6/1/2019   | Billed high sewer charge.                         |          | 49,000 gal billed for both water and sewer. Last year same quarter was 61,000 for water and 16,000 for sewer. |                    |
| 6/28/2019  | Tenant called regarding leak                      |          | Customer stated that the repairs were made at the end of April and requested a credit to the high bill.       | Melissa Stay       |
| 7/1/2019   | 1 of 2 leak repair confirmation Work order issued |          | Read for evaluation purposes was taken.   |                    |

|            |   |          |   |                    |
|------------|---|----------|---|--------------------|
| 7/15/2019  | 2 of 2 leak repair confirmation Work order issued |          | Read for evaluation purpose was taken. Leak repair was confirmed and credit of \$6.75 for tiered rate was issued towards 3/1/19 bill.   |                    |
| 7/17/19    | Tiered rate adjustment                            | \$6.75   |   | Kathleen Alberico  |
| 9/13/2019  | Notification of Pending Lien Assessment           | \$731.70 | Letter sent   | Finance Department |
| 10/14/2019 | Council Meeting                                   | -        | <b>Tenant</b> Appealed at Council Meeting.  | -                  |
| 10/15/2019 | Phone call to customer                            |          | Attempted contact at 12:08pm. Left message and requested a call back  | Chris Kuecker      |
| 10/15/2019 | Customer returned call.                           |          | We discussed that the customer is on limited income and can only afford to make \$100.00 payments every other week beginning on 10/25/19. No penalties will be charge on the 10/19/2019 due date. The payments will reduce the amount to be certified but any remaining balance on 11/14/19 will be certified. He asked about financial assistance and I mentioned CEAP and Hennepin County. I also suggested that he might work something out with the property owner. | Chris Kuecker      |
| 10/24/2019 | Council Meeting                                   | -        | Staff recommends assessing the full amount due to non-payment.  | Finance Department |

General account note: This is a rental property.

The Owner of this property is enrolled in online billing but has elected to receive paper copies of bills delivered by US Postal Services. There is no indication of post office not being able to deliver the bill. The owners billing address matches Hennepin County records.

The tenant is not enrolled in online billing and we do not have any indication of the post office not being able to deliver the bill. Customer contact, in addition to regular quarterly bills, has been recorded as referenced above. All contact has been with the tenant.

There has been no contact with the owner of the property other than the delivery of the quarterly bill.

Utility Billing: 33481-002  
 Address: 6016 72<sup>nd</sup> Ave N  
 Brooklyn Park, MN 55429

| Date       | Action   | Amount   | Notes   | Staff              |
|------------|--|--|---|--------------------|
| 12/22/2006 | Account started  |  |   |                    |
| 09/10/2013 | Notification of Pending Lien Assessment  | \$51.26  | Letter Sent   | Finance Department |
| 09/08/2015 | Notification of Pending Lien Assessment  | \$101.33                                       | Letter Sent   | Finance Department |
| 11/17/2015 | Certify to Taxes   | \$101.33                                       |   | Finance Department |
| 6/14/16    | Payment plan granted   | \$378.18                                       |   |                    |
| 7/14/16    | Penalty waived   | \$27.81  |   |                    |
| 9/1/16     | Payments made towards plan.  | \$327.17                                       | Plan inactivated as satisfied. Remaining balance of the Payment plan was \$51.01.   |                    |
| 09/08/2017 | Notification of Pending Lien Assessment  | \$51.01  | Letter Sent   | Finance Department |
| 11/20/2017 | Certify to Taxes   | \$51.01  |   | Finance Department |
| 09/07/2018 | Notification of Pending Lien Assessment  | \$764.82                                       | Letter Sent   | Finance Department |
| 11/19/2018 | Certify to Taxes   | \$764.82                                       |   | Finance Department |
| 9/13/19    | Notification of Pending Lien Assessment  | \$717.51                                       | Letter sent   | Finance Department |
| 9/30/19    | Partial payment received   | \$100.00                                       |   |                    |
| 10/14/19   | Council Meeting  | -  | Appealed at Council Meeting   | -                  |
| 10/15/19   | Phone call to customer<br><br>Payment plan granted.<br><br>Penalty waived for July<br><br>Penalty waived for October | <br><br>\$682.23<br><br>\$63.85<br><br>\$68.22 | Called customer at 1:30. Customer will make payments as he can to pay off as much of the bad debt as possible prior to November 14 <sup>th</sup> . I agreed to waive the 7/20/19 penalty and put him on a payment plan to avoid the October 19 <sup>th</sup> penalty. We talked about the affect of the 2018 certification vs the effect of the possible 2019 certification to his mortgage payment. I mentioned Hennepin county in response to his request for financial assistance. | Chris Kuecker      |

|          |                 |   |  |                    |
|----------|-----------------|---|--|--------------------|
| 10/24/19 | Council Meeting | - | Staff recommends assessing the full amount due to non-payment. | Finance Department |
|----------|-----------------|---|--|--------------------|

General account note: This property is Owner occupied and the account is not enrolled in online billing and we do not have any indication of the post office not being able to deliver the bill. No service calls have been made to this property. No customer contact has been recorded other than the instances referenced above and the regular quarterly bills.

Utility Billing: 33986-004  
 Address: 7318 75<sup>th</sup> Cir N  
 Brooklyn Park, MN 55428

| Date                             | Action                                    | Amount   | Notes   | Staff              |
|----------------------------------|---|----------|---|--------------------|
| 03/23/2009                       | Account started                           |          |   |                    |
| 09/11/2012                       | Notification of Pending Lien Assessment   | \$476.24 | Letter Sent   | Finance Department |
| 11/26/12                         | Certify to Taxes                          | \$476.24 |   | Finance Department |
| 12/26/12                         | Payment plan Granted                      | \$318.69 | Payment Plan was paid in full by 3/15/13 and penalties waived during this time. | Finance Department |
| 1/17/13                          | Penalties waived                          | \$31.69  | Penalties waived, payment plan in good standing.                                |                    |
| 3/15/13                          | Payments receive to satisfy payment plan  | \$300.00 |   |                    |
| 1/27/15                          | Payment plan Granted                      | \$339.89 |   | Finance Department |
| 03/16/15                         | Payments received to satisfy payment plan | \$300.00 |   |                    |
| 09/08/2015                       | Notification of Pending Lien Assessment   | \$613.01 | Letter Sent   | Finance Department |
| 11/17/15                         | Certify to Taxes                          | \$613.01 |   | Finance Department |
| 9/7/16                           | Notification of Pending Lien Assessment   | \$419.05 | Letter sent   | Finance Department |
| 11/18/16                         | Certify to Taxes                          | \$419.05 |   | Finance Department |
| 9/13/19                          | Notification of Pending Lien Assessment   | \$380.87 | Letter sent   | Finance Department |
| 10/025/19                        | Partial Payment Received                  | \$100.00 |   |                    |
| 10/14/19                         | Council Meeting                           |          | Appealed at Council Meeting   | -                  |
| 10/15/19                         | Phone call to customer                    |          | Attempted contact at 10:45 am. Left voice message and requested a call back.    | Chris Kuecker      |
| 10/17/19<br>10/18/19<br>10/22/19 | Phone call to customer                    |          | Attempted contact. Left voice message and requested a call back.                | Chris Kuecker      |
| 10/24/19                         | Council Meeting                           | -        | Staff recommends assessing the full amount due to non-payment.                  | Finance Department |

General account note: This property is Owner occupied and the account is not enrolled in online billing and we do not have any indication of the post office not being able to deliver the bill. No service calls have been made to this property.

Utility Billing: 52453-003  
 Address: 10115 GEORGIA AVE N  
 Brooklyn Park, MN 55443

| Date       | Action  | Amount   | Notes  | Staff               |
|------------|---|----------|--|---------------------|
| 09/28/2017 | Account started   |          |  |                     |
| 04/20/2019 | Customer signed up for e-billing  |          | Customer verified that the e-mail address was correct and has not signed into the account since this time. | Customer initiated. |
| 07/01/19   | First bill delivered electronically and first bill that was not paid on time. | \$172.45 |  |                     |
| 8/17/19    | Late payment penalty added  | \$189.70 |  |                     |
| 9/13/19    | Notification of Pending Lien Assessment                                       | \$187.45 | Letter sent. Paper copy was mailed traditional US Postal Service.  | Finance Department  |
| 10/14/19   | Council Meeting   | -        | Appealed at Council Meeting  | -                   |
| 10/15/19   | Phone call to customer  |          | Attempted contact at 11:03 a52m. Left voice message and requested a call back.                             | Chris Kuecker       |
| 10/18/19   | Phone call to customer  |          | Attempted contact at 8:25 am. Unable to leave message – mailbox is full                                    | Chris Kuecker       |
| 10/22/19   | Phone call to customer  |          | Attempted contact at 3:08 pm. Left voice message and requested a call back.                                | Chris Kuecker       |
| 10/22/19   | e-mailed customer   |          | Reminder that they are enrolled in electronic delivery and requested that they contact our office.         | Chris Kuecker       |
|            |   |          |  |                     |
| 10/24/19   | Council Meeting   | -        | Staff recommends assessing the full amount due to non-payment.   | Finance Department  |

General account note: This property is Owner occupied and the account is enrolled in online billing. No service calls have been made to this property. No customer contact has been recorded other than the instances referenced above and the regular quarterly bills.

| Date     | Action     | Notes   | Staff  |
|----------|------------|---|--------|
| 10/29/18 | Complaint  | Complaint received regarding trash cans in view. This property has a long history with cases confirming violations of waste containers stored in public view. Previous citations have been issued and administrative hearings have been held imposing these fines | P. Ann |
| 10/29/18 | Inspection | Inspection of property confirmed violation of the trash cans in view. Attempted to make contact with the resident at the door and via phone call.   | P. Ann |
| 11/2/18  | Notice     | Correction notice was sent to property owner.   | P. Ann |
| 11/2/18  | City Fine  | Immediate City fine of \$220 issued for repeat. This citation doubled from the \$110 fine that was issued during the previous case.   | P. Ann |
| 11/16/18 | Inspection | Inspection of property found violation corrected. Case closed   | P. Ann |



## Correction & Abatement Order

Community Development Department

Code Enforcement & Public Health Division

5200 85<sup>th</sup> Avenue North / Brooklyn Park, MN 55443

Phone: (763) 493-8070 / Fax: (763) 493-8391

Si usted necesita asistencia en español, llame 763-493-8388

Yog koj tsis tau tau es yuav lub Hmoob hu 763-488-6487

November 02, 2018

TERRY W CUTCLIFFE  
6200 92ND TRAIL N  
BROOKLYN PARK, MN 55443

CASE #: 2018-00003530  
PROPERTY IN VIOLATION: 6200 92ND TR N

An inspection of your property was conducted on 11/02/2018 and the following code violation(s) exist and must be corrected. This notice contains summaries of the city code. The complete code language is available on the city website or you can request a copy of the code from city staff.

| Violation Observed & Comply by Date  | Code Description  |
|--|---|
| <p>All Trash/Recycle Cans must be stored away from view always, except on pickup days.</p> <p>Comply by November 10, 2018.</p> | <p>Ch. 98: All waste containers must be stored out of public view. The container must not be visible from the street or from adjoining front yards. Containers can be put in the garage, behind the house, or behind an approved screened enclosure behind the front line of the house. Vegetation is not an approved screening material.</p> |

Failure to correct the above violation(s) may result in abatement or the issuance of a citation.

### **\*\*Abatable Items**

Abatement items not corrected by the "comply by" date will result in the City correcting the violation. The homeowner will be billed the cost of the abatement in addition to an administrative fee. If the bill is not paid, these costs will become a special assessment on the property in violation pursuant to provisions of M.S. § 429:101. If you wish to appeal this pending abatement you must request a hearing before the "comply by" date with the Code Enforcement and Public Health Manager.

Repeat violations occurring within 12 months may result in immediate fines ranging from \$55.00 to \$2000.00. Fine amounts are based on the type and number of previous violations. Property maintenance codes exist to prevent blight, maintain a residential atmosphere and promote safe and healthy neighborhoods.

Your cooperation in this matter is greatly appreciated. If you have any questions regarding this letter, please contact:

Pa M. Ann  
Neighborhood Health Specialist  
763-488-6383  
Pa.Ann@brooklynpark.org





**CITY OF BROOKLYN PARK  
ADMINISTRATIVE CITATION**

Citation #: CEPH-135

Finance Copy  
 Original  Copy

**This citation charges you with one or more violations of Brooklyn Park City Code.**

**Name and Mailing Address of Alleged Violator:**      **Address/Location of Violation:** 6200 92ND TR N, BROOKLYN PARK, MN  
TERRY W CUTCLIFFE      **Zip code** 55443  
6200 92ND TR N      **PID Address:**  
16-119-21-22-0026  
BROOKLYN PARK, MN 55443

Repeat violation within 12 months       Continuing Violation       Alleged Violator is the property owner

| NATURE OF OFFENSE          | ORDINANCE # | FINE (\$) |
|----------------------------|-------------|-----------|
| 1. WASTE CONTAINER STORAGE | CH. 98.14   | 220       |

**Date of Violation:** 11/2/2018      **Time of Violation:** 10:41:00 AM      **Date Issued:** 11/2/2018      **Case Number:** 2018-3530

**Inspector Name/Badge #:** PA ANN

**Inspector Signature:** 

**Other pertinent information:**

**Fine will double if violation is not corrected by the comply by date of November 10th, 2018.**

**GENERAL INFORMATION**

The Administrative Enforcement Program is authorized by Chapter 37 of the Brooklyn Park City Code. The fines are set by City Council resolution from time to time. When you receive an administrative citation, you have two options. You must either (1) correct the violation and pay the fine; or (2) request an administrative hearing within fourteen (14) days of the date of the citation (Date Issued). Previously issued citations are separate from this citation and must be paid or requested for a hearing within 14 days of issuance. Citation amounts are doubled for repeat violations. Failure to pay the fine or request a hearing within fourteen (14) days of the Date Issued or failure to attend a requested hearing constitutes a waiver of your rights and is an admission of the violation.

**FINE PAYMENT INFORMATION**

A late payment fee of 10% of the amount of the fine may be charged by the City for each 30 day period or part thereof that the fine remains unpaid. The fine may be paid with cash, check, credit card, or money order at City Hall. A check or money order must be made payable to the City of Brooklyn Park for the correct amount. You may mail a copy of this citation with your check, or money order to: City of Brooklyn Park, 5200 85<sup>th</sup> Ave N, Brooklyn Park, MN 55443.

**NOTE: DO NOT MAIL CASH**

**NOTE: BY PAYING THE FINE, YOU ARE ADMITTING THAT YOU VIOLATED THE CITY ORDINANCE.**

**HEARING REQUEST INFORMATION**

If you believe that you did not violate the City Code or if you wish to refute the citation, you may request a hearing before a hearing officer who is not a City employee. To request a hearing you must contact the Administrative Citation Program Administrator either in person or by telephone at (763) 488-6487. You must request a hearing within fourteen (14) days of the date of the citation (Date Issued). The Program Administrator will notify you of the date, time, location of your hearing, and the name of the hearing officer. Make certain that you allow at least one-half of a day for the hearing. Other cases may be scheduled at the same time and you may have to wait.

**PENALTIES**

In the event that you are found to have violated the City Code and the fine remains outstanding, the City may take one or more of the following actions:

1. If you own property in the City and the property was the subject of the violation, and the fine remains unpaid, the City may assess or cause a lien to be placed in the amount of the fine against your property.
2. Pursue a legal action against you to collect the fine.
3. Suspend, revoke, not renew or deny a City-issued license or permit that is associated with the violation.
4. Refuse to grant approval for any license, permit or other City approval sought by you or for property under your ownership or control.
5. Issue a criminal citation and pursue criminal prosecution.
6. Issue additional administrative citations.

***If you have questions regarding this abatement letter please call (staff number). Si usted necesita asistencia en español, llame (763) 493-8388. Yag koj tsis tau tau es yuav lub Hmoob hu (763)488-6487.***

Copy: Resident

| Date    | Action     | Notes   | Staff       |
|---------|------------|---|-------------|
| 6/01/18 | Complaint  | Complaint received regarding long grass around garden area and crumbling driveway.  | Pa Ann      |
| 6/01/18 | Inspection | Inspection of property confirmed violations. Sent Correction/Abatement Order for long grass and driveway.   | Pa Ann      |
| 6/11/18 | Inspection | Follow up inspection confirmed partial compliance with long grass violation along fence. Issued authorization to contractor to abate.   | Pa Ann      |
| 6/14/18 | Abatement  | Long grass was taken care of by the property owner prior to contractor arriving for abatement.  |             |
| 7/5/18  | Inspection | Follow up inspection for driveway confirmed violation still not corrected.  | Pa Ann      |
| 7/12/18 | Complaint  | Additional complaint received regarding vehicle with expired tabs, and long grass in garden area.   |             |
| 7/13/18 | Inspection | Inspection of property confirmed violations. Sent Correction/Abatement Order for long grass, vehicle with expired tabs, and crumbling driveway.   | Pa Ann      |
| 7/24/18 | Inspection | Follow up inspection confirmed truck with expired tabs was removed, grass in garden area taken care of, but driveway violations remain.   | Pa Ann      |
| 7/27/18 | Phone Call | Received phone call from property owner requesting an extension for the driveway repairs. Extension granted to 8/15/18.   | Pa Ann      |
| 7/31/18 | Notice     | Sent correction notice sent to property owner per extension request.  | Pa Ann      |
| 8/16/18 | Inspection | Follow up inspection confirmed crumbling driveway not repaired and waste containers in public view. Sent final notice to correct driveway violation and waste containers in public view. Issued fine for continuing noncompliance for driveway violation. | Pa Ann      |
| 8/16/18 | City fine  | City fine of \$200 was issued in violation of driveway in disrepair.  | Pa Ann      |
| 8/23/18 | Phone call | Property owner called, stated he can't afford to repair the driveway and is a disabled veteran. Reviewed potential programs for assistance.   | Pa Ann      |
| 8/24/18 | Phone Call | Inspector called property owner to explain some of the options open to him.   | Pa Ann      |
| 8/28/18 | Meeting    | Staff visited to talk to resident, no one answered the door, left card. Suggestion to link him up with Yellow ribbon org, veteran affairs.  | Pa Ann      |
| 9/05/18 | Email      | Staff contacted Beyond the Yellow Ribbon to establish a connection with the resident and the organization to see if they can assist with the driveway repairs.  | Jason Newby |
| 9/18/18 | Email      | Spoke to property owner about pending driveway violation. The VFW is working with the homeowner and has applied for the funds to replace the entire driveway.   | Jason Newby |

|         |            |   |             |
|---------|------------|---|-------------|
| 4/15/19 | Email      | Received email from VFW that they are still working on securing the funds to replace the entire driveway. | Jason Newby |
| 7/29/19 | Notice     | Received information that the grant was approved.   | Pa Ann      |
| 9/30/19 | Inspection | Confirmed driveway was replaced. Case closed.   | Pa Ann      |



## Correction & Abatement Order

Community Development Department

Code Enforcement & Public Health Division

5200 85<sup>th</sup> Avenue North / Brooklyn Park, MN 55443

Phone: (763) 493-8070 / Fax: (763) 493-8391

Si usted necesita asistencia en español, llame 763-493-8388

Yog koj tsis tau tau es yuav lub Hmoob hu 763-488-6487

June 01 2018

J D SCHROEDER/C N SCHROEDER  
9142 BRUNSWICK AVE N  
BROOKLYN PARK, MN 55443-0000

CASE #: 2018-00001498  
PROPERTY IN VIOLATION: 9142 BRUNSWICK AVE N

An inspection of your property was conducted on 06/01/2018 and the following code violation(s) exist and must be corrected. This notice contains summaries of the city code. The complete code language is available on the city website or you can request a copy of the code from city staff.

| Violation Observed & Comply by Date  | Code Description   |
|--|--|
| Damaged/crumbling driveway must be repaired. Comply by 7/1/18.   | Ch. 106 (IPMC): All buildings, structures and fences must be maintained in good repair. Chipped paint or decaying surfaces are not allowed.  |
| <p>**This is an abatable item. Please mow all grass/weeds throughout the property and trim any grass and weeds that are 8 inches or more in height around landscaping, including the boulevard area.</p> <p>Long grass/weeds in garden enclosure must be mowed/trimmed.</p> <p>Comply by 6/9/18.</p> | Ch. 97 - All grass and/or weeds throughout the property, including but not limited to, lawns, landscaped areas, boulevards (public right-of-way), buildings, along fences and other structures, must be cut, trimmed and maintained at a height of less than 8 inches at all times. Bag and dispose yard waste if necessary. |

Failure to correct the above violation(s) may result in abatement or the issuance of a citation.

### \*\*Abatable Items

Abatement items not corrected by the "comply by" date will result in the City correcting the violation. The homeowner will be billed the cost of the abatement in addition to an administrative fee. If the bill is not paid, these costs will become a special assessment on the property in violation pursuant to provisions of M.S. § 429:101. If you wish to appeal this pending abatement you must request a hearing before the "comply by" date with the Code Enforcement and Public Health Manager.

Repeat violations occurring within 12 months may result in immediate fines ranging from \$55.00 to \$2000.00. Fine amounts are based on the type and number of previous violations. Property maintenance codes exist to prevent blight, maintain a residential atmosphere and promote safe and healthy neighborhoods.

Your cooperation in this matter is greatly appreciated. If you have any questions regarding this letter, please contact:





## Correction & Abatement Order

Community Development Department

Code Enforcement & Public Health Division

5200 85<sup>th</sup> Avenue North / Brooklyn Park, MN 55443

Phone: (763) 493-8070 / Fax: (763) 493-8391

Si usted necesita asistencia en español, llame 763-493-8388  
Yog koj tsis tau tau es yuav lub Hmoob hu 763-488-6487

July 13 2018

FINAL NOTICE

J D SCHROEDER/C N SCHROEDER  
9142 BRUNSWICK AVE N  
BROOKLYN PARK, MN 55443-0000

CASE #: 2018-00001498  
PROPERTY IN VIOLATION: 9142 BRUNSWICK AVE N

An inspection of your property was conducted on 07/13/2018 and the following code violation(s) exist and must be corrected. This notice contains summaries of the city code. The complete code language is available on the city website or you can request a copy of the code from city staff.

| Violation Observed & Comply by Date   | Code Description   |
|---|--|
| Damaged/crumbling driveway must be repaired.<br><br><i>Comply by 7/29/18. FINAL NOTICE</i>  | Ch. 106 (IPMC): All buildings, structures and fences must be maintained in good repair. Chipped paint or decaying surfaces are not allowed.  |
| <b>**This is an abatable item. Please mow all grass/weeds throughout the property and trim any grass and weeds that are 8 inches or more in height around landscaping, including the boulevard area. Long grass/weeds in garden enclosure must be mowed/trimmed.</b><br><br><i>Comply by 7/20/18. FINAL NOTICE</i>  | Ch. 97 - All grass and/or weeds throughout the property, including but not limited to, lawns, landscaped areas, boulevards (public right-of-way), buildings, along fences and other structures, must be cut, trimmed and maintained at a height of less than 8 inches at all times. Bag and dispose yard waste if necessary. |
| <b>**This is an abatable item. Violations pertaining to inoperable/unlicensed vehicles may be towed by the City after the "comply by" date. Impounded vehicles will be towed by Cardinal Towing, 8400 Noble Avenue North, Brooklyn Park, MN 55443 (763-535-1202) or by City-Wide Service 9309 83rd Avenue North, Brooklyn Park, MN 55445 (763-424-4900) under authority of Chapter 90.18(C) of the Brooklyn Park City Code. The vehicle may be reclaimed in accordance with the procedures contained in M.S. § 168B.07 or disposed of in accordance with M.S. § 168B.08. If you wish to contest this pending abatement action you may in writing request a hearing before the CEPH Manager. Update vehicle registration/tabs, repair, store inside garage or remove the following vehicles:</b><br><br><b>White Chevy truck, # YB05841, Must have current tabs, and be operable to park outside.</b><br><br><i>Comply by 7/23/18.</i> | Ch. 90: All vehicles must have a current license. Vehicles that do not run or drive cannot be stored outside for more than 48 hours. The City may have the vehicle towed to an impound lot and it will be the owners responsibility to get it back.  |





## Correction & Abatement Order

Community Development Department

Code Enforcement & Public Health Division

5200 85<sup>th</sup> Avenue North / Brooklyn Park, MN 55443

Phone: (763) 493-8070 / Fax: (763) 493-8391

Si usted necesita asistencia en español, llame 763-493-8388  
Yog koj tsis tau tau es yuav lub Hmoob hu 763-488-6487

July 31, 2018

### FINAL NOTICE

J D SCHROEDER/C N SCHROEDER  
9142 BRUNSWICK AVE N  
BROOKLYN PARK, MN 55443-0000

CASE #: 2018-00001498  
PROPERTY IN VIOLATION: 9142 BRUNSWICK AVE N

An inspection of your property was conducted on 07/31/2018 and the following code violation(s) exist and must be corrected. This notice contains summaries of the city code. The complete code language is available on the city website or you can request a copy of the code from city staff.

| Violation Observed & Comply by Date  | Code Description  |
|--|---|
| Damaged/crumbling driveway must be repaired.<br><br>Comply by 8/15/18. FINAL NOTICE<br>(As per extension request 7/27/18 via phone call) | Ch. 106 (IPMC): All buildings, structures and fences must be maintained in good repair. Chipped paint or decaying surfaces are not allowed. |

Failure to correct the above violation(s) may result in abatement or the issuance of a citation.

#### **\*\*Abatable Items**

Abatement items not corrected by the "comply by" date will result in the City correcting the violation. The homeowner will be billed the cost of the abatement in addition to an administrative fee. If the bill is not paid, these costs will become a special assessment on the property in violation pursuant to provisions of M.S. § 429:101. If you wish to appeal this pending abatement you must request a hearing before the "comply by" date with the Code Enforcement and Public Health Manager.

Repeat violations occurring within 12 months may result in immediate fines ranging from \$55.00 to \$2000.00. Fine amounts are based on the type and number of previous violations. Property maintenance codes exist to prevent blight, maintain a residential atmosphere and promote safe and healthy neighborhoods.

Your cooperation in this matter is greatly appreciated. If you have any questions regarding this letter, please contact:

Pa M. Ann  
Neighborhood Health Specialist  
763-488-6383  
Pa.Ann@brooklynpark.org





## Correction & Abatement Order

Community Development Department  
Code Enforcement & Public Health Division  
5200 85<sup>th</sup> Avenue North / Brooklyn Park, MN 55443  
Phone: (763) 493-8070 / Fax: (763) 493-8391

Si usted necesita asistencia en español, llame 763-493-8388  
Yog koj tsis tau tau es yuav lub Hmoob hu 763-488-6487

August 16 2018

J D SCHROEDER/C N SCHROEDER  
9142 BRUNSWICK AVE N  
BROOKLYN PARK, MN 55443-0000

CASE #: 2018-00001498  
PROPERTY IN VIOLATION: 9142 BRUNSWICK AVE N

An inspection of your property was conducted on 08/16/2018 and the following code violation(s) exist and must be corrected. This notice contains summaries of the city code. The complete code language is available on the city website or you can request a copy of the code from city staff.

| Violation Observed & Comply by Date   | Code Description   |
|---|--|
| Damaged/crumbling driveway must be repaired.<br><i>Comply by 9/02/18.</i>   | Ch. 106 (IPMC): All buildings, structures and fences must be maintained in good repair. Chipped paint or decaying surfaces are not allowed.  |
| All Trash/Recycle Cans must be stored away from view always except on pickup days. Comply by<br><i>Comply by 8/23/18.</i> | Ch. 98: All waste containers must be stored out of public view. The container must not be visible from the street or from adjoining front yards. Containers can be put in the garage, behind the house, or behind an approved screened enclosure behind the front line of the house. Vegetation is not an approved screening material. |

Failure to correct the above violation(s) may result in abatement or the issuance of a citation.

### **\*\*Abatable Items**

Abatement items not corrected by the "comply by" date will result in the City correcting the violation. The homeowner will be billed the cost of the abatement in addition to an administrative fee. If the bill is not paid, these costs will become a special assessment on the property in violation pursuant to provisions of M.S. § 429:101. If you wish to appeal this pending abatement you must request a hearing before the "comply by" date with the Code Enforcement and Public Health Manager.

Repeat violations occurring within 12 months may result in immediate fines ranging from \$55.00 to \$2000.00. Fine amounts are based on the type and number of previous violations. Property maintenance codes exist to prevent blight, maintain a residential atmosphere and promote safe and healthy neighborhoods.

Your cooperation in this matter is greatly appreciated. If you have any questions regarding this letter, please contact:

Pa M. Ann  
Neighborhood Health Specialist  
763-488-6383  
Pa.Ann@brooklynpark.org





**CITY OF BROOKLYN PARK  
ADMINISTRATIVE CITATION**

Citation #: CEPH-108

Finance Copy  
 Original  Copy

This citation charges you with one or more violations of Brooklyn Park City Code.

Name and Mailing Address of Alleged Violator: Address/Location of Violation: 9142 BRUNSWICK AVE N, BROOKLYN PARK, MN  
J D SCHROEDER/C N SCHROEDER Zip code 55443  
9142 BRUNSWICK AVE N PID Address: 16-119-21-22-0071  
BROOKLYN PARK, MN 55443

Repeat violation within 12 months  Continuing Violation  Alleged Violator is the property owner

| NATURE OF OFFENSE       | ORDINANCE #                       | FINE (\$) |
|-------------------------|-----------------------------------|-----------|
| 1. PROPERTY MAINTENANCE | CH. 106/IPMC-SECTIONS 303.1 303.2 | 200       |

Date of Violation: 8/16/2018 Time of Violation: 11:31:00 AM Date Issued: 8/16/2018 Case Number: 2018-1498

Inspector Name/Badge #: PA ANN

Inspector Signature: 

**Other pertinent information:**

**Fine will double if violation is not corrected by the comply by date of 9/02/18.**

**GENERAL INFORMATION**

The Administrative Enforcement Program is authorized by Chapter 37 of the Brooklyn Park City Code. The fines are set by City Council resolution from time to time. When you receive an administrative citation, you have two options. You must either (1) correct the violation and pay the fine; or (2) request an administrative hearing within fourteen (14) days of the date of the citation (Date Issued). Previously issued citations are separate from this citation and must be paid or requested for a hearing within 14 days of issuance. Citation amounts are doubled for repeat violations. Failure to pay the fine or request a hearing within fourteen (14) days of the Date Issued or failure to attend a requested hearing constitutes a waiver of your rights and is an admission of the violation.

**FINE PAYMENT INFORMATION**

A late payment fee of 10% of the amount of the fine may be charged by the City for each 30 day period or part thereof that the fine remains unpaid. The fine may be paid with cash, check, credit card, or money order at City Hall. A check or money order must be made payable to the City of Brooklyn Park for the correct amount. You may mail a copy of this citation with your check, or money order to: City of Brooklyn Park, 5200 85<sup>th</sup> Ave N, Brooklyn Park, MN 55443.

NOTE: DO NOT MAIL CASH

NOTE: BY PAYING THE FINE, YOU ARE ADMITTING THAT YOU VIOLATED THE CITY ORDINANCE.

**HEARING REQUEST INFORMATION**

If you believe that you did not violate the City Code or if you wish to refute the citation, you may request a hearing before a hearing officer who is not a City employee. To request a hearing you must contact the Administrative Citation Program Administrator either in person or by telephone at (763) 488-6487. You must request a hearing within fourteen (14) days of the date of the citation (Date Issued). The Program Administrator will notify you of the date, time, location of your hearing, and the name of the hearing officer. Make certain that you allow at least one-half of a day for the hearing. Other cases may be scheduled at the same time and you may have to wait.

**PENALTIES**

In the event that you are found to have violated the City Code and the fine remains outstanding, the City may take one or more of the following actions:

1. If you own property in the City and the property was the subject of the violation, and the fine remains unpaid, the City may assess or cause a lien to be placed in the amount of the fine against your property.
2. Pursue a legal action against you to collect the fine.
3. Suspend, revoke, not renew or deny a City-issued license or permit that is associated with the violation.
4. Refuse to grant approval for any license, permit or other City approval sought by you or for property under your ownership or control.
5. Issue a criminal citation and pursue criminal prosecution.
6. Issue additional administrative citations.

*If you have questions regarding this abatement letter please call (staff number). Si usted necesita asistencia en español, llame (763) 315-8407. Yog koj tsis tau tau es yuav lub Hmoob hu (763)488-6487.*

Copy: Resident



## Correction & Abatement Order

Community Development Department  
 Code Enforcement & Public Health Division  
 5200 85<sup>th</sup> Avenue North / Brooklyn Park, MN 55443  
 Phone: (763) 493-8070 / Fax: (763) 493-8391

Si usted necesita asistencia en español, llame 763-493-8388  
 Yog koj tsis tau tau es yuav lub Hmoob hu 763-488-6487

October 05, 2018

J D SCHROEDER/C N SCHROEDER  
 9142 BRUNSWICK AVE N  
 BROOKLYN PARK, MN 55443-0000

CASE #: 2018-00001498  
 PROPERTY IN VIOLATION: 9142 BRUNSWICK AVE N

An inspection of your property was conducted on 10/04/2018 and the following code violation(s) exist and must be corrected. This notice contains summaries of the city code. The complete code language is available on the city website or you can request a copy of the code from city staff.

| Violation Observed & Comply by Date  | Code Description   |
|--|--|
| Damaged/crumbling driveway must be repaired.<br><i>Comply by 9/02/18. (pending)</i>  | Ch. 106 (IPMC): All buildings, structures and fences must be maintained in good repair. Chipped paint or decaying surfaces are not allowed.  |
| All Trash/Recycle Cans must be stored away from view always except on pickup days.<br><i>Comply by Comply by October 12th, 2018.</i>   | Ch. 98: All waste containers must be stored out of public view. The container must not be visible from the street or from adjoining front yards. Containers can be put in the garage, behind the house, or behind an approved screened enclosure behind the front line of the house. Vegetation is not an approved screening material. |
| Riding mower, stuff in trailer, and tail-gate leaning on wall (to be reattached on trailer or stored away), and the cabinet at the far end of fence, and other stuffs.<br><i>Comply by October 12th, 2018.</i> | Ch. 152: Outdoor storage is not allowed except for recreational equipment and properly stacked firewood. All other items must be stored inside or removed from the property.   |

Failure to correct the above violation(s) may result in abatement or the issuance of a citation.

### **\*\*Abatable Items**

Abatement items not corrected by the "comply by" date will result in the City correcting the violation. The homeowner will be billed the cost of the abatement in addition to an administrative fee. If the bill is not paid, these costs will become a special assessment on the property in violation pursuant to provisions of M.S. § 429:101. If you wish to appeal this pending abatement you must request a hearing before the "comply by" date with the Code Enforcement and Public Health Manager.

Repeat violations occurring within 12 months may result in immediate fines ranging from \$55.00 to \$2000.00. Fine amounts are based on the type and number of previous violations. Property maintenance codes exist to prevent blight, maintain a residential atmosphere and promote safe and healthy neighborhoods.

Your cooperation in this matter is greatly appreciated. If you have any questions regarding this letter, please contact:



**From:** [Commander 3915](#)  
**To:** [Jason Newby](#)  
**Subject:** Re: Volunteers needed to assist veteran in Brooklyn Park  
**Date:** Tuesday, September 18, 2018 11:23:45 AM

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Jason,

wanted to give you an update. After looking at the driveway I don't believe that a patch would be the best way to go nor would it be a good use of funds. We have contacted a pavement company and they gave us a quote to replace the driveway however it is much higher than we expected. We are looking into a few programs that might be able to assist and will let you know if we find something.

Thanks,

Commander Jarrod McReynolds

Palmer Lake VFW Post 3915  
2817 Brookdale Drive  
Brooklyn Park, MN 55444  
Phone: 763.560.3720 Cell: 651.307.6133 Fax: 763.560.0408  
Email: [palmerlake.vfw3915@gmail.com](mailto:palmerlake.vfw3915@gmail.com)  
Website: [www.palmerlakevfw.org](http://www.palmerlakevfw.org)

**From:** [Jason Newby](#)  
**To:** [Pa Ann](#)  
**Cc:** [Michelle Peterson](#)  
**Subject:** FW: Veteran with Drive way issues  
**Date:** Monday, April 15, 2019 2:53:00 PM

---

FYI...Brunswick Ave

**From:** Commander 3915 <palmerlake.vfw3915@gmail.com>  
**Sent:** Monday, April 15, 2019 2:52 PM  
**To:** Jason Newby <Jason.Newby@brooklynpark.org>  
**Subject:** Veteran with Drive way issues

Jason,

I wanted to give you a heads up that we have not forgotten about this issue. Our Post is working with DAV to get the funding needed to get this Veterans driveway replaced. I will also be reaching out to the Veteran to ensure that he has applied for a grant with the Anoka Veterans claim server office. We should be able to get this all taken care of in the next month or so.

Thanks,

Commander Jarrod McReynolds

Palmer Lake VFW Post 3915  
2817 Brookdale Drive  
Brooklyn Park, MN 55444  
Phone: 763.560.3720 Cell: 651.307.6133 Fax: 763.560.0408  
Email: [palmerlake.vfw3915@gmail.com](mailto:palmerlake.vfw3915@gmail.com)  
Website: [www.palmerlakevfw.org](http://www.palmerlakevfw.org)



# City of Brooklyn Park Request for Council Action

|                        |  |                                |   |
|------------------------|--|--------------------------------|---|
| <b>Agenda Item:</b>    | 8.1  | <b>Meeting Date:</b>           | October 28, 2019                                      |
| <b>Agenda Section:</b> | Discussion Items   | <b>Originating Department:</b> | Operations and Maintenance, Engineering Division      |
| <b>Resolution:</b>     | N/A  | <b>Prepared By:</b>            | Jeff Holstein, PE, PTOE, City Transportation Engineer |
| <b>Ordinance:</b>      | N/A  |                                |   |
| <b>Attachments:</b>    | 1  | <b>Presented By:</b>           | Leif Garness, SRF Consulting Group, Inc.              |
| <b>Item:</b>           | Update on the Highway 252 / I-94 Environmental Review Study; CIP 4050-19 |                                |   |

## City Manager's Proposed Action:

Update the Council on the current status of the Highway 252 / I-94 Environmental Review Study.

## Overview:

The City Council approved funding for the Highway 252 / I-94 Environmental Review on February 5, 2018. The city is partnering with MnDOT, Hennepin County, the City of Minneapolis and the City of Brooklyn Center on this study. The agencies have retained SRF Consulting Group, Inc. (SRF) to provide transportation planning, engineering and environmental expertise, and to manage the project. The two-year project is expected to be completed in February 2020. The work scope for the project includes two Council presentations by SRF for each city. The project is currently at a key point (selection of preferred alternative) and staff requested SRF to provide an update to the Council.

The Council will be updated on the current status of the project, including how and why the preferred alternative was selected. They will also discuss the next steps in the study process and expound upon how the project moves forward after this study to a potential 2023 start of reconstruction.

## Primary Issues/Alternatives to Consider:

The current preferred alternative includes upgrading TH 252 to a six-lane freeway, providing full movement interchanges at 66<sup>th</sup> Avenue, Brookdale Drive and 85<sup>th</sup> Avenue and reconnecting West River Road. The West River Road reconnection is needed to provide reasonable access to and from the north and for emergency service to the homes east of TH 252 and near 73<sup>rd</sup> Avenue, both within Brooklyn Park and Brooklyn Center. It is also needed for school bussing purposes and to provide local Metro Transit service. West River Road was disconnected between 74<sup>th</sup> Way and 75<sup>th</sup> Avenue in the early 1990s to minimize cut-through traffic diverting from a congested TH 252. The proposed six lane freeway option should eliminate congestion along TH 252 and we do not anticipate significant diversion of traffic to the reconnected West River Road.

SRF will also discuss other impacts to the local roadway system caused by the proposed disconnection of access at 73<sup>rd</sup> Avenue and 81<sup>st</sup> Avenue / Humboldt Avenue. The process for analyzing and determining the need for noise mitigation will also be discussed.

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

## Attachments:

8.1A LOCATION MAP

