

MINUTES

COTTAGE GROVE CITY COUNCIL

October 18, 2023

**COUNCIL CHAMBER
12800 RAVINE PARKWAY SOUTH**

REGULAR MEETING - 7:00 P.M COUNCIL CHAMBER

1. CALL TO ORDER

The City Council of the City of Cottage Grove, Washington County, Minnesota, held a regular meeting on October 18, 2023, at Cottage Grove City Hall, 12800 Ravine Parkway. Mayor Bailey called the meeting to order at 7:00 p.m. He noted in accordance with the requirements of Minnesota Statute Section 13D.02, Council Member Tony Khambata will appear remotely via interactive technology from the following public location: Hilton Garden Inn Conference Room, 101 East Hiawatha Drive, Wisconsin Dells, Wisconsin, 53965.

2. PLEDGE OF ALLEGIANCE

The audience, staff, and City Council Members stood and recited the Pledge of Allegiance.

3. ROLL CALL

City Clerk Tammy Anderson called the roll: Mayor Bailey - Here; Council Member Khambata - Here; Council Member Olsen - Here; Council Member Thiede - Here.

Also present: Jennifer Levitt, City Administrator; Amanda Johnson, Assistant City Attorney-LeVander, Gillen & Miller, PA; Tammy Anderson, City Clerk; Ryan Burfeind, Public Works Director; Gretchen Larson, Economic Development Director/Acting Communications Director; Zac Dockter, Parks and Rec Director; Joe Fischbach, HR Manager; Pete Koerner, Public Safety Director; Brenda Malinowski, Finance Director; Amanda Meyer, City Engineer; Mike Mroska, Senior Planner; Emily Schmitz, Community Development Director.

4. OPEN FORUM

Mayor Bailey opened the Open Forum. He stated Robert Ebennga, 6999 East Point Douglas Road, had signed up to speak. Mayor Bailey asked him to step to the podium, and noted Mr.Ebennga had some concerns about sidewalks.

Robert stated he brought in a photo of what he's talking about on his tablet so Council could see what he was talking about so there's no misconception about what he's doing, because it's pretty serious and we have to fix it. He handed his tablet to Director Burfeind, who showed the photo to the Council. He stated he lives at 6999 East Point Douglas Road, in the Dominion's property, and there's a sidewalk that runs on the opposite side of the road from Dominion property. It's a City property, and it's a sidewalk that the City should be maintaining, not left like it is. This has been this way for over a year now, with that hole in the sidewalk. He guesses what the City is looking for is one big lawsuit by not fixing it, and it costs maybe \$20 to send a man out there to put something in it. There's no excuse for that hole to be there for over a year when you have nothing but senior citizens walking in that area 24 hours a day, 7 days a week, with cats and dogs. When they run, you don't know where they're going to run to, and you're going to have somebody fall in that hole, and you better have deep pockets because you will need them. Thank you, I wish you could get that done in the next 48 hours before somebody does get hurt.

Mayor Bailey stated Council Member Thiede had a question for Robert.

Council Member Thiede asked Robert if he had actually brought this photo to anybody in the City to let them know. Robert said he has brought it to nobody at the City, he's just bringing it to your attention now.

Mayor Bailey told Robert that we have his information. Once we get feedback from our Public Works teams on what they're going to do about this or why it's there, what they'll do is provide their feedback to you and directly to the Council so you'll know what's going on.

Robert said have Tammy email me, he thought she had his email address over there. Mayor Bailey stated absolutely.

Council Member Olsen and Mayor Bailey both thanked Robert for letting us know, to which Robert replied thank you.

As no one else wished to address the Council, Mayor Bailey closed the Open Forum.

5. ADOPTION OF AGENDA

Council Member Thiede made a motion to approve the agenda; second by Council Member Olsen. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye.

Motion carried: 4-0.

6. PRESENTATIONS

- A. Washington County Food Scrap Program
Staff Recommendation: Receive the Washington County Food Scrap Program Presentation.

Mayor Bailey stated Washington County Commissioner Karla Bigham is here to start the introductions of guests from Washington County, who are here tonight.

Commissioner Bigham thanked Council the opportunity to speak here tonight. For the last few months, we've been in a pilot phase of a specific area of our community, Newport, North St. Paul, and Maplewood. She's here to announce that every resident in Cottage Grove and the other three communities can now participate in this amazing program. She gave a shout out to the staff, who have been out all summer and fall at various events, including Fire Department open houses, booyas, and they're still not done; they still have more events to attend to just talk about this program and get citizen feedback. She thinks that's really made a lot of difference. We've been promoting this on social media, so she encouraged residents to also check that out. She has staff here, as well as some starter kits, the cost is under \$5. For Cottage Grove, Newport, North St. Paul, Maplewood, and Washington County residents, the starter kits will be available in Newport.

Commissioner Bigham turned the presentation over to Anna Lee Garletz, who is here to talk about the details and give some feedback about the website.

Anna stated she is with Ramsey-Washington Recycling and Energy and is the supervisor of this Food Scraps pickup program. As Commissioner Bigham mentioned, she'll run through a little bit about how the program works, how easy it is to sign up, and if there are any Cottage Grove residents in the audience here, we have some trial kits available at the back of the program. We'd love it if they grabbed one of these, took it home, and gave it a try so that you could sign up for the program.

Once you determine what size bag you would like, you can go online to order your free supply of food scrap bags. You collect your food scraps in the bag and believe it or not, you put these in the trash. They're thicker than regular compost bags, you fill them up, tie a knot, and put it in your trash or your dumpster for collection. From there, it gets hauled away and it gets sorted out at the facility.

Now that it's fully rolled out in Cottage Grove, we did a pilot in the four communities, and we thank Cottage Grove for letting us do the pilot, as you were kind of a guinea pig as we were learning about the program and how it works. We piloted it with a total of a little over 2,000 people, they were given the opportunity to participate in the pilot program, and we were able to gather a lot of information. There are lots of moving parts for the program, we learned about customer service, worked with haulers, worked on ordering and delivery. We developed a website and worked with staff and vendors. From that, we were able to identify education; we were able to do a lot of testing and a lot of learning. All households should have received a postcard, and they'll soon start seeing geo-targeted ads letting them know that they're eligible for the program and can sign up. We've also attended community events, and if City Council Members know of any other future events, we'd love to attend those. If you think there's a good opportunity, please let us know.

There are a lot of resources that we have available if there are any questions that people have, we have a phone number that people can call, which is on the website, and information is available in five different languages. We have videos, instructions, and different notifications that people can opt into. Right now, as of September 29, 2023, we have just under 5% of the eligible population in these communities signed up.

We're excited to see more participants rolling in each day. Food scraps make up about 20% of the waste that goes into the trash; so, by participating in the program, we're keeping that amount out of the trash. She knows Council has a busy agenda tonight, so she'll stand for any questions if there are any.

Mayor Bailey thanked Anna for being here tonight and Commissioner Bigham for kind of spearheading this for our neighborhood communities in this part of Washington County. He had the opportunity a couple months ago to take a tour of the Newport facility to see how that technology works, the machine that picks these bags out of the trash was unbelievable to him, the artificial intelligence was pretty amazing. He definitely encourages everyone to sign up and help reduce the amount of product that goes into our landfills, as the ultimate goal here is better composting of this kind of product. He spoke with Commissioner Bigham about what that means from a future standpoint if we can get more and more people to do this, so he thinks that's great.

Council Member Khambata stated he's just happy to see that this has taken off. He remembers the first time Commissioner Bigham came here to discuss this project with us, and he's glad to see it's getting rolled out on a larger scale.

Council Member Thiede stated we have the Monster Bash parade coming up on October 28, and if you go to the Strawberry Fest site, you can get signed up if you want to walk down the street and have people hand out trial kits, you can let him know.

Anna stated we can talk about that; maybe Commissioner Bigham wants to do that. Mayor Bailey stated he knows Commissioner Bigham is going to be there.

Mayor Bailey thanked Anna again for coming here to share this information with us. He asked if somewhere down the road she can work with our staff to come here to give us an update to let us know how successful this is so that we can continue to push this out into the community for the betterment of everyone.

Anna stated she would appreciate that opportunity; she'd love to get the word out about how many people are using it, if there are any tips and tricks that we're learning along the way, and just share the successes of the program with people. She thanked the Council for their time.

7. CONSENT AGENDA

- A. Approve the September 20, 2023 City Council Special Meeting Minutes.
- B. Approve the September 20, 2023 City Council Regular Meeting Minutes.
- C. Approve the issuance of rental licenses to the properties in the attached table.
- D. Approve the Mayor's Commission Appointments, as follows: Mayor Pro Tem & Economic Development Authority - Tony Khambata, Investment Committee - Dave Thiede, and Cottage Grove Convention and Visitors Bureau Chair - Justin Olsen.

- E. Appoint Council Member Olsen as Chairman of the CVB. Appoint Erik Olson and Sarah Grecula to fill the two vacant positions on the CVB Board.
- F. Approve two additional Sergeant positions for the 2024 budget.
- G. Authorize Public Safety to trade in surplus equipment to Guardian Fleet Safety.
- H. Adopt Resolution 2023-134 authorizing the use of seven of the City's SAC credits for Dunkin'/Baskin Robbins that will be located at 7584 80th Street South.
- I. Adopt Resolution 2023-134 approving the plans and specifications and establishing a November 21, 2023 bid date for the Utilities and Engineering Division Building Project.
- J. Glacial Valley Park-Approve Change Order #2, thereby increasing the contract amount by \$52,244.50 for a total contract amount of \$2,595,136.44.

Council Member Olsen wished to pull Item E, Appointments to the Convention and Visitors Bureau, and Mayor Bailey pulled Item D, Commission Appointments, for further comment and/or discussion.

Council Member Olsen stated as we're currently one Council Member down at the moment, as everybody is keenly aware Council Member Steve Dennis provided his resignation at our last meeting. Of course, as sad as we are to see Steve move on, we certainly have to continue doing business. Part of that is ensuring that we have a full roster on each of our various City Commissions; that includes the Convention and Visitors Bureau, which is a relatively new entity. Council Member Dennis was the Chair of the Convention and Visitors Bureau, and I have been the Vice Chair since its inception. Mayor Bailey has been kind enough to offer to have me as the Chair, so, I will graciously accept that opportunity.

Council Member Olsen also took a moment to congratulate two new appointees to the Convention and Visitors Bureau: One is Erik Olson, and Council Member Olsen knows Erik and his wife, Jenny, very well as Jenny serves on our Public Services Commission. They are both tremendous people, and Erik will be a great addition to the Convention and Visitors Bureau Board. The second appointee is Sarah Grecula. He welcomed Sarah and Erik to the Board, and he looks forward to having both of them at our next meeting.

Mayor Bailey stated with Council Member Dennis no longer on the Council, there were three positions available, one that Council Member Olsen just mentioned, on which we're doing temporary appointments. What will end up happening in December is he will reset appointments for Council Members; he's assuming by then we'll have another Council Member appointed. Just so the public is aware, his recommendation is the Mayor Pro Tem and the Economic Development Authority person will be Council Member Khambata, the Investment Committee will be Council Member Thiede, and as mentioned earlier, the Cottage Grove Convention and Visitors Bureau Chair will be

Council Member Olsen. He wanted to advise the public of those appointments through the end of the year.

Motion by Council Member Olsen to approve the Consent Agenda; second by Council Member Thiede. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye.
Motion carried: 4-0.

8. APPROVE DISBURSEMENTS

- A. Approve payments for the period of 9-28-2023 through 10-12-2023 in the amount of \$2,319,129.40.

Motion by Council Member Olsen to approve disbursements; second by Council Member Thiede. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye.
Motion carried: 4-0.

9. PUBLIC HEARINGS

- A. 2023 Pavement Management Assessment Hearing
Staff Recommendation: 1) Conduct the Public Hearing for the 2023 Pavement Management Project. 2) Adopt Resolution 2023-131, Adopting the Assessment Roll for the 2023 Pavement Management Project.

Director Burfeind stated for tonight's public hearing he'll first run through the work that we did, look at some outcomes and final photos, and those final costs and assessments. We always like to show our Pavement Management history map, which dates back to 1995; this neighborhood was actually the 1996 Pavement Management Project, which we talked about when the project was ordered last winter. It's a long process that we do to keep our roads in good condition. Part of that with our policy is assessments to the property owners within the project area.

He displayed a map of the 2023 Pavement Management Area; all the roads in blue are the streets that were rehabilitated this year with a full new pavement replacement, spot curb replacement, and spot utility repairs. The neighborhood itself has been around for quite some time, longer than the pavements and utilities; so, they're actually a lot older than our average neighborhood, so utility costs were a little bit higher than usual, which was anticipated just based on the age of the neighborhood.

Director Burfeind displayed some before and after photos; in the before photos, there was lots of patching and lots of issues around the manhole covers. You can see some of the thin overlays that Public Works staff had done many years ago to kind of hold that road together. Also, there is a lot of alligator cracking, so, you'll see some on 80th Street, the frontage road, and Homestead Avenue, as well as the after photo of that finished new pavement. On Hemingway Avenue and Hyde Court those are very similar

with very poor road condition going into the project, and then there's the new asphalt with spot curb repairs upon completion.

Funding Breakdown: Our total project cost ended up being just over \$3.4 million. There are four utility funds that pay for part of that; all of those utilities are assessable, so, a portion of those utility costs are in the assessment. The remainder is picked up by the utility funds. The General Levy picks up a good portion of the project, just over \$1.5 million. The total assessments, if they are adopted tonight, are \$1,326,125.36.

Director Burfeind displayed a map of all of the Assessable Properties. Everything in green are all the single family residential properties, which total 308. There are a few park properties, and the City pays that portion of the road that's adjacent to a park property; that's no different than a private property owner would. There's also a church at 8300 Hyde Avenue.

Assessment Information: 308 Assessable Residential Buildable Lot Equivalent (RBLE) units; an RBLE is one single family unit. Based on the estimates when we ordered the project on the feasibility report, the calculation for the assessment was just under \$5,000. We did multiple Special Benefit Appraisals on a wide variety of those single-family units, and they ranged from \$5,800 to \$7,100, so they supported the proposed assessment. We do the Special Benefit Appraisal because we do not want to assess more than that amount. With those project costs coming in lower, which is a good thing, the actual assessment proposed is \$4,234.50; so, that's about \$730 lower than what was proposed last winter. Over 15 years, the average annual payment if it were to go to the taxes and be assessed is just under \$400.

As mentioned, there was one assessable religious institution, and the estimated assessment, based on the feasibility report, was \$43,733.08. We did the recalculation based on the final project cost, which dropped it to \$37,291.57. The Special Benefit Appraisal only supported \$21,900, which was also stated at the public hearing last winter, so that caps the assessment. We do not assess more than the Special Benefit Appraisal, so their assessment amount is proposed at \$21,900.

Assessment Terms: If the terms are adopted tonight, if they're paid within the first 30 days, which would be November 17, 2023, there is no interest charged. Otherwise, it does go onto the taxes payable over 15 years. The interest rate is 1.5% above the bond rate; so, we're looking at an interest rate of 5%. Partial payment is allowed in that first 30 days, with a minimum of \$500. Deferral is available for a few things: Disability, military, and those 65 years of age or older. Proof is needed for deferral, and interest still accrues during the deferral period. If residents have specific questions on those, Director Burfeind stated he and our Finance Department can work with them.

Assessment Objection: Director Burfeind noted we received one Assessment Objection letter on October 10, 2023, from Hope Community Church, 8300 Hyde Avenue. We received that letter ahead of this meeting, which follows the requirements of the State Statute. If the assessments are ordered tonight, they would have to perfect that appeal; there are a few more steps they'd have to do with the District Court and with the City

Clerk, and we can discuss those events if that moves forward. He just wanted to make note that we received that objection letter.

Mayor Bailey asked Council if they had any questions for Director Burfeind at this time, before he opens the public hearing.

Council Member Olsen thanked Director Burfeind for his presentation and the information. He knows you and I and the Mayor actually spent some time in this neighborhood, along with our Streets Supervisor, Gary Orloff, looking at the condition of the road and trying to gauge what we needed to do and when we needed to do it, as we had some neighbors who reached out. He's been in the neighborhood recently and it is a night and day difference, it's unbelievable, and that work was needed in a big way. He said Director Burfeind mentioned some of the infrastructure relative to utilities; obviously, that neighborhood is a little bit older, it has been through a couple of these now, in the 1990s and now today. He asked Director Burfeind to give a little insight as to what exactly, from a utilities perspective, a neighborhood like this presents that is a little bit more challenging, based on the age. Obviously, when the roads are dug up, it's a lot easier to get to various utilities, but he asked Director Burfeind to help people understand what the improvements really are.

Director Burfeind stated before any project, we do a lot of utility investigations; we're doing televising of all the pipes in the ground, we look at all the watermain, the valve bolts to see if they're in good condition, we recondition the hydrants, and we look at all the structures. So, based on all of that, we come up with a scope of work to include in the project; like you said, now is the time to do it. There were no wholesale utility replacements needed, which is good, because that's extremely costly if you have to replace all the watermain or all the sanitary sewer. What we found and what we'd expect is just more cracked pipes, so we have to do what's called a short liner; so, it's a more cost effective way to do it where we actually line the pipe and you don't replace the entire structure. With the manholes and such, we're making sure all the lids and the castings are at all the right location height and they're not leaking; you see them sucking all the road into it with all the patching going on, so we do a lot of additional mudding in the structure and rehabbing all the concrete and then some lining of the catch basins as well. The trouble is when they start to break down, they pull the road in and all the material right into it; so, that's what we're fixing. With that, we also recondition all the hydrants and we also did a bunch of streetlight work.

Council Member Olsen stated he knows that in the past few years, we've changed our approach to pavement management to some degree where in addition to doing these sorts of projects, at about a 15-year lifespan or so, we do what's called a Mill and Overlay on these projects to help them last longer. Director Burfeind has previously talked about that with the Council, but he asked him to briefly remind people of what the new process looks like because it will definitely help extend the life of this road. That means that anybody paying an assessment is going to get a lot more bang for their buck because they don't pay anything for that Mill and Overlay. He asked Director Burfeind to briefly walk us through that.

Director Burfeind stated in the past, it was sealcoating applications, which worked really well, but as pavements change, MnDOT makes changes to it, and some of those become less effective. So, that's where we're seeing this pavement management right now, at around 27 years, this one was right on 27 years; some of them have a bit more of a range, 22-to-30 years, in that neighborhood. Our goal with the Mill and Overlay is at that 15-to-16 year mark, we're going to do that Mill and Overlay with those funds that we have to replace that top 1.5 inches of the asphalt. We will also do that thin overlay method, like we've talked about, that's done inhouse by our staff with no assessment, hopefully around 30 years of life. That will then push these roads out for an actual full replacement project closer to 40 years, which is our goal. We're just starting that now, and then we'll see how we can meet those goals. So far, it's worked well; the Mill and Overlays have been a great process, and they're just very cost efficient. We don't do a lot of other work, we just take that pavement off, put the new stuff down, and we're in and out in about two weeks.

Council Member Olsen stated unlike a project of this nature, there's no assessment for that, there's no cost to the resident in the neighborhood for that; Director Burfeind stated that's correct.

Council Member Olsen stated he likes having Director Burfeind talk about that because the major benefit is our roads are going to last longer. You'll pay your assessment today, and in the past you might be paying again in 27-to-30 years, if we were lucky. Now, we're looking at a 40-year lifespan, so that's pretty fantastic.

Council Member Olsen stated finally, this is a legal process; assessments are a legal process, we're bound by State Statute as it relates to this. You mentioned that there are some opportunities for people to have deferrals, so, he appreciates Director Burfeind bringing that up because those options exist for a reason. We want people to know that they're there. Every time we do one of these, there are always a few who are eligible for that deferral, and we want to make sure they have the correct information. He thanked Director Burfeind.

Mayor Bailey opened the public hearing. If anybody wants to speak on this item or maybe object to the assessments, they are welcome to do so at this time.

As no one spoke on this topic, Mayor Bailey closed the public hearing.

Motion by Council Member Olsen to Adopt Resolution 2023-131, Adopting the Assessment Roll for the 2023 Pavement Management Project; second by Council Member Khambata. Mayor Bailey asked if there was any further discussion.

Council Member Olsen asked Mr. Dale **Shank** if he approved, if we were okay, as Council Member Olsen knew this was his area. He asked him if he was happy, if it looked better. Council Member Olsen stated he was a great former teacher of his.

Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye. Motion carried: 4-0.

B. Tall Weeds Assessment Hearing

Staff Recommendation: 1) Hold the Public Hearing. 2) Adopt Resolution 2023-132, Adopting service charges for the removal of noxious weeds and plants from private property.

Brenda Malinowski, Finance Director, stated tonight you'll be holding a public hearing for the removal of noxious weeds and plants from private property; that is in accordance with our City Code. Specifically, it is unlawful to allow or permit any growth of weeds, grass, brush, or other rank vegetation to a height greater than eight inches.

In 2023, our City Code Enforcement Officer issued 36 letters to property owners for violations of that Code. The owners were given five days to abate that condition, or else the letter stated that the City would come in, abate the condition, and invoice the property for that amount. In five instances, the City had to hire a contractor to mow the lawn, and then we invoiced those properties for the cost of that lawnmowing and the administrative fee. On four occasions on those invoices, they did not pay the City; so, City Council at your meeting on September 20, 2023, declared costs and we sent assessment notices to those property owners. One property since that time has paid, so we removed that from the roll this evening. Council should hold the public hearing and consider the assessment.

If you do adopt the assessment, if it's not paid in the next 30 days, it will be certified to their property taxes next year. She noted of the three that are on the roll this evening, we received payment this week on one of them; so, they will already be paying in the 30 days, and so they will not be certified to the property taxes.

Mayor Bailey opened the public hearing. As no one wished to speak on this topic, Mayor Bailey closed the public hearing.

Motion by Council Member Thiede to Adopt Resolution 2023-132, Adopting service charges for the removal of noxious weeds and plants from private property; second by Council Member Olsen. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye. Motion carried: 4-0.

- C. Street Reconstruction and Overlay Plan Public Hearing
Staff Recommendation: 1) Conduct the Public Hearing for the Street Reconstruction and Overlay Plan. 2) Adopt Resolution 2023-133 Adopting a Street Reconstruction and Overlay Plan and approving the issuance of General Obligation Street Reconstruction Bonds.

Director Malinowski stated earlier this year we did the 10-year Financial Management Plan (FMP). The things that it incorporated were our operating budget, staffing, equipment replacement, pavement management programs, so the assessment hearing we had this evening, and another portion was Street Reconstruction Projects. Those are projects such as East Point Douglas Road and 80th Street, so we incorporated the debt payments for those projects that needed to be done for streets into our FMP. So, now we have the opportunity to do a Street Reconstruction Overlay Plan based on our FMP.

Since this is the first time that the City has followed this process, Ehlers assisted us in preparation of the plan; Keith Dahl from Ehlers is here to review it with you and take any questions. Mayor Bailey welcomed Keith Dahl.

Mr. Dahl stated before Council tonight is the Street Reconstruction and Overlay Plan, more commonly referred to as an SROP. It lays out the revenues and expenses for the projects that we have identified in that plan over a five-year horizon; so, we're looking from 2024 to 2028. This hasn't been the traditional approach that the City has taken on street reconstruction projects; typically, you use the assessment process with the improvement bonds, but this is another option if you're not able to achieve that 20% of project costs being assessed against benefitting property owners.

With an SROP, you are able to assess, but if that assessment amount is under that 20%, that's when this approach comes in handy. Now, it is subject to a 30-day reverse referendum; that means after we hold the public hearing and take comments, if the City Clerk receives a petition from signatures of 5% of the voters from the last general election, this item would go for a referendum vote. With that, just looking at what the revenues and the expenses are and going off of what was in the FMP and the CIP, we added some inflation to account for time, anticipating that costs may rise over this five-year horizon. We also accounted for some contingency.

On the amount that we would potentially issue for bonds, this is a not to exceed amount; so, the amount that you end up issuing for these various years could be less. It does not require or commit the City Council to issuing bonds of that size, it's just a maximum amount. We also incorporated the cost of issuance, capitalized interest, and underwriter discount in that size. So, that's just a high level general overview of the SROP. He will turn it back over to the Mayor for any questions that he or the Council may have.

Mayor Bailey stated the general public may not know that we've actually been discussing this program in our workshop sessions, so it's different for Cottage Grove than what we've done in the past. In his opinion, it's a great planning tool to foresee needs, budget wise, going into the future.

As there were no questions from the Council, Mayor Bailey opened the public hearing. He stated anybody who wants to speak on this item is now welcome to do so. As nobody wished to speak on this topic, Mayor Bailey closed the public hearing.

Motion by Council Member Olsen to Adopt Resolution 2023-133 Adopting a Street Reconstruction and Overlay Plan and approving the issuance of General Obligation Street Reconstruction Bonds; second by Council Member Khambata. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye. Motion carried: 4-0.

10. BID AWARDS - None.

11. REGULAR AGENDA

- A. Cannabis and Tobacco Use on Public Property & Public Places
Staff Recommendation: Discuss the ordinances and, if acceptable, move each ordinance separately for approval. 1) Motion to approve an Ordinance Amending Cottage Grove City Code by Enacting Title 5, Chapter 1, Section 6, Prohibiting Cannabis Use on Public Property and in Public Places. 2) Motion to approve an Ordinance Amending Cottage Grove City Code by Amending Title 7, Chapter 3, Section 4, Prohibiting Smoking and Vaping Tobacco Products in Public Parks. 3) Motion to approve an Ordinance Amending Cottage Grove City Code by Enacting Title 5, Chapter 1, Section 7, Underage Possession and Use of Cannabis Products.

Kori Land, City Attorney, stated we're dealing with the legislation that was bestowed upon us in May. In July, we talked about a moratorium, public use of cannabis in public places. In August, Council adopted a moratorium, but you didn't want to take action on a public place ordinance at that time prohibiting the use of cannabis in public places; instead, you wanted to hear some feedback from other commissions, to hear what the residents think about things that you are making policy level decisions about. In September, we held a Joint Commission meeting with the Parks Commission and the Public Service Commission to talk about these three cannabis-related topics. Tobacco is not a cannabis topic, but it was sort of an outflow from the discussion.

At that September 11 meeting, we had a pretty good turnout from both of those commissions. In general, more than a majority supported all three ordinances: The first one is prohibiting smoking and vaping of cannabis in public places; the second is they felt like tobacco use, smoking and vaping, should be treated the same because it's a public health issue; third, the Statute does not provide a penalty for underage use of cannabis, and they overwhelmingly supported that there should be a penalty. So, we'll go through each of those ordinances, which have been prepared separately; they are three different sections of the Code, but she felt like Council really needed to discuss them and approve them as separate ordinances instead of packaging them in one.

As you know, the State law indicates that the use of cannabis is restricted to certain places, it is only allowed in: 1) A private home, inside or outside your yard, your curtilage, which is considered areas that the general public could cross, such as your driveway or your sidewalk to get to your front door; 2) Private property with permission of the owner; or 3) Any business that has an on-site consumption license, which there are none because that can only be issued from the Office of Cannabis Management, and that will not be operational until 2025. However, there are the two caveats in the yes, they can smoke or vape in these three locations, but it must be outside the presence of a minor and it cannot violate the Clean Indoor Air Act. Again, there's no penalty in the Statute, so that's what we are discussing. The legislation does state the City can provide a penalty and prohibit public places, but the penalty can be no more than a petty misdemeanor.

So, the way we've defined public places in this ordinance is that it is property generally open to or accessible by the public, and it includes public property. Public property is defined as it is owned by the City; so, that can be real property, buildings,

parking lots, Rights-of-Way, trails, and sidewalks. So, smoking and vaping of cannabis of the adult use version of cannabis would be prohibited in public places, any place generally accessible to the public, as well as on public property.

We recommend adopting an ordinance prohibiting smoking or vaping of cannabis on public property and in public places; the violation would be a petty misdemeanor, and the fine would be \$100. This would be what we call a payable ticket, so if someone were to receive a citation for this, they can pay it and it does not show up on any kind of a criminal history; it's like getting a parking ticket. Failure to pay it is where you get into trouble, but a petty misdemeanor is not intended to have any kind of criminal consequences.

You wanted the Parks Commission and the Public Services Commission to weigh on whether or not we should prohibit tobacco smoking and vaping in our public parks; even though it hasn't been an issue, it's a public health issue, just as smoking and vaping of cannabis is a public health issue. The Joint Committee meeting recommended adopting an ordinance prohibiting the smoking and vaping of tobacco in public parks; so, it's not as broad as the smoking and vaping of cannabis, it's restricted to just public parks, but they felt that River Oaks was sort of a separate kind of park. It's not really a park because you have to pay to play; so, that's more of a venue than it is a park. The violation would be the same, however, as the cannabis smoking and vaping; it would be a petty misdemeanor, and the fine would be \$100.

As far as underage use, it is illegal for anyone under the age of 21 to use any form of cannabis, whether it's a 0.3% or less or 0.3% or more, it is illegal, but again, the legislature decided not to punish the children and so there's no penalty if they violate. So, we are recommending adopting an ordinance prohibiting underage possession and use of cannabis products, so it's anyone under the age of 21; the penalty should mirror the State law on Underage Consumption of Alcohol, as both are intoxicating substances, and violations would be a misdemeanor but the fine would be \$100. Anyone under age 18 is going to qualify for a diversion program; anyone between 18 and 21, it's like getting an Underage Consumption ticket when you're in college, so that's the penalty, it would be a misdemeanor.

We are recommending you discuss all three ordinances and recommending approval, but discuss and approve them separately.

Mayor Bailey asked if Council had any questions for Attorney Land.

Council Member Khambata stated when researching these ordinances, he's sure she compared them against other municipalities and other case law. He asked if there's any reason to think that by adopting these ordinances, they may be challenged by an individual for their constitutionality or overreach.

Attorney Land replied given its similarity to a prohibition on tobacco use in a park, and she's not aware of any challenges to those ordinances under a public health, safety, welfare sort of justification, she feels like that's a pretty solid ground. Prohibiting use of cannabis in public places is specifically authorized in the legislation; it says cities can, and it is prohibited in public places. Please don't misunderstand, it is not allowed in public places today, but there's no penalty. So, unless you say it out loud in your

ordinance, we mean it's not allowed and here's how you will be punished, there's no way to enforce it. So, that is absolutely 100% solid.

Council Member Olsen thanked Attorney Land for taking the time to bring this forward. He was fortunate enough, as was Council Member Khambata, to be part of the Joint Commission Meeting, and he can state from being part of that meeting that there was overwhelming support for each of these items. He really thanked our commissioners, as we have advisory commissions to the City Council for a reason; they exist for a reason, which is we want to have as many citizen voices of varying backgrounds, experiences, points of view to come online whenever we're dealing with challenging situations like this. Their job is to advise the City Council, their job is to tell us we've looked at this, this is what we think, this is what we recommend that you do; ultimately, it's our decision, we're the ones who have to make the call, but it's always helpful to have input from as many people as we had in that commission meeting, and it was very well attended. There were a lot of great questions, a lot of great dialogue; he complimented all of the commission members and the various staff liaisons who were in the building for that meeting. He thought the outcome of that was pretty solid, so he's certainly in support of all of these recommendations, based on the fact that this is also what the commissions brought forth to us. He wants to really give them the credit they deserve for helping us with this, because this was a heavy lift.

Council Member Thiede stated just to be clear, this covers any type of cannabis, no matter what form its in.

Attorney Land stated it is smoking and vaping of cannabis; so, if somebody's eating a gummy bear, we're not going to go up and try to test the gummy bear to see if it was just purchased at the local candy store or the CBD shop. It's just smoking and vaping.

Motion by Council Member Olsen to Approve an Ordinance Amending Cottage Grove City Code by Enacting Title 5, Chapter 1, Section 6, Prohibiting Cannabis Use on Public Property and in Public Places; second by Council Member Thiede. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye. Motion carried: 4-0.

Motion by Council Member Thiede to approve an Ordinance Amending Cottage Grove City Code by Amending Title 7, Chapter 3, Section 4, Prohibiting Smoking and Vaping Tobacco Products in Public Parks; second by Council Member Khambata. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye. Motion carried: 4-0

Motion by Council Member Olsen to approve an Ordinance Amending Cottage Grove City Code by Enacting Title 5, Chapter 1, Section 7, Underage Possession and Use of Cannabis Products; second by Council Member Thiede. Clerk Anderson called the roll: Council Member Khambata-Aye, Council Member Thiede-Aye, Council Member Olsen-Aye, Mayor Bailey-Aye. Motion carried: 4-0.

12. COUNCIL COMMENTS AND REQUESTS

Council Member Khambata stated in light of the new appointments to our various volunteer commissions, he thought it was noteworthy to just give credit and give thanks to our volunteer citizens of Cottage Grove, who for no compensation, other than their goodwill, donate their time and input to our volunteer commissions. It is an essential part of what we do in shaping our ordinance and making this City run as smoothly as it does. So, thank you to all of our volunteers.

Council Member Thiede stated he mentioned it a little earlier, but Saturday, October 28, is the Monster Bash parade, which starts at the starts at the School District Service Center, 7362 East Point Douglas Road, near Applebee's, at 10:00 a.m., and ends at the District Program Center, 8400 East Point Douglas Road. It's a fun parade, and if you go to cottagegrovestrawberryfest.com and click on the Monster Bash parade application, it will show the parade route and applications to be in the Monster Bash parade are due by Friday, October 20. Council Member Thiede stated he's pretty lucky because he doesn't even have to wear a costume and he's scary.

Council Member Olsen stated Council Member Thiede is always a tough act to follow.

Council Member Olsen took a moment to congratulate the Park High School boys soccer team, who are in the State Tournament; they are Section Champions, they won the other night, and he knows that we're all going to get behind them as a community here in Cottage Grove. It's always fun when we have one of our teams in the State Tournament. It's a real honor for our community to have teams that represent us in the State Tournament. He again congratulated the Park High School boys soccer team; he hopes that at one of the future Council Meetings we can congratulate them on a State Championship, we would love that.

Council Member Olsen stated you might notice that he's wearing a shirt that says Beyond the Yellow Ribbon, and he did that on purpose. As a member of our Beyond the Yellow Ribbon team here in Cottage Grove, one of the things that we do is we support families who may be challenged with different situations related to their participation as members of our Armed Forces. One of the most difficult is when we have National Guard soldiers who get deployed, and that deployment call can come at any time. With the conflict that is currently taking place in Israel and the Gaza Strip and the Palestinian held territory, a number of National Guard soldiers from across the country have been called into active duty. Right now, the number is over 2,000, and in the State of Minnesota we have a couple of different armories who are going to be deployed because they are going to be there to support some of the aircraft carriers and other military personnel who are already there in that region. He just wanted to take a minute to ask everybody to please give some thought to the fact that we're approaching the holiday season, and there are going to be a lot of families out there who may have mom or dad or both or aunt, uncle, son, daughter who aren't going to be around this holiday season because of this situation. They don't really have control over when those

deployments happen. So, we're here as part of the Beyond the Yellow Ribbon team to help support those families. If there is anybody in need that you know of, or anybody who is in need who is watching this at home, he would ask that you please reach out to our Beyond the Yellow Ribbon team. You can contact Council Member Olsen directly, just Google his name to find his email address and phone number. He is not the Justin Olsen who is an Olympic snowboarder, just so you know; he clarified he's the other guy, but he's willing to have that conversation with you, and we want to help those families have a great holiday season. So, please lean on us if there's a need.

Mayor Bailey stated interestingly enough, we're actually getting into the holiday season as Council Member Olsen just mentioned, and there are all kinds of events coming up. During our first meeting in November, he told staff that maybe we want to have a review of all the upcoming holiday events between the end of November into December. There are a couple, though, before our next Council Meeting; one is the Monster Bash parade, which is a great event here in Cottage Grove. The other one is on October 25, at the Ice Arena, is the Halloween Skating Spooktacular. It's \$10 per skater, and if you need to rent skates, you can do that there, and that cost is \$5. You can go to the City website to check that out. The other event is Pumpkin Chuck. Mayor Bailey stated he missed it last year, but heard it was pretty amazing; it is free and it's at Peter Thompson Park on November 2, between 3:30 and 5:30 p.m. He encouraged anyone who likes to chuck a pumpkin to absolutely come out to Peter Thompson Park and enjoy those festivities.

Mayor Bailey stated because we're getting into November, another item he wants to mention is down at River Oaks they'll be having an event that they've not had for a couple of years, the Friendsgiving. All of the Council Members have previously taken part in this, it's an opportunity to meet with friends and family for a family-style meal. It will be held on November 10. If you want to learn more information, check out the City website or River Oaks' website. We have a large group of two tables because once you've experienced this at River Oaks and the great food prepared by our chefs, and our staff members there, you'll want to go back. It's absolutely amazing. He can't recall the cost of that meal, but it's very much worth it. It's a great event in which to participate.

Mayor Bailey stated we also have additional events for the Hometown Holiday celebration at the end of November. We recently learned that the Holiday Train will be back in Cottage Grove on Sunday, December 10, at approximately 5:00 p.m. They're excited to be back in Cottage Grove, and they'll be celebrating 40 years.

Council Member Olsen asked if they will again be doing the collection of paper goods, etc. for the Holiday Train; Mayor Bailey stated that will take place prior to that date, and that's why he wants to make sure that we catch all those things and share the other events with the public.

13. WORKSHOPS - OPEN TO PUBLIC - None.

14. WORKSHOPS - CLOSED TO PUBLIC - License Revocation Hearing

- A. Motion to close the meeting pursuant to Minnesota Statute Section 13D.05, Subd. 2(a)(2), to consider the tobacco license revocations of Cottage Grove Tobacco, LLC and Cottage Grove 4G LLC, doing business as Smoke Leaf, which will involve the discussion of active investigative data as defined in Minnesota Statute Section 13.82, Subd. 7.

Mayor Bailey stated this hearing is closed to the public. Once the discussions have taken place between the Council, staff, and the representatives, we will then open the meeting in the Training Room so that the public can hear what decision has been made. Council will also adjourn this meeting from the Training Room after that hearing.

15. ADJOURNMENT

Motion by Council Member Olsen, second by Council Member Thiede, to adjourn the meeting at 9:34 p.m. Motion carried: 4-0.

Minutes prepared by Judy Graf and reviewed by Tamara Anderson, City Clerk