

The meeting convened at 6:30 p.m.

Councilmembers present: Mayor Jake Spano, Tim Brausen, Steve Hallfin, Rachel Harris, Anne Mavity, Thom Miller, and Margaret Rog.

Councilmembers absent: none.

Staff present: City Manager (Mr. Harmening), City Attorney (Mr. Mattick), Director of Community Development (Ms. Barton), Housing Supervisor/Deputy Community Development Director (Ms. Schnitker), Assistant Housing Supervisor (Ms. Olson), Property Maintenance & Licensing Manager (Ms. Boettcher), Communications Manager (Ms. Smith), Police Lt. John Parker; Senior Management Analyst (Ms. Solano), and Recording Secretary (Ms. Pappas).

Guests: Samuel Spade & Eric Hauge, HOME Line; Muria Kruger, Volunteer Lawyers Network & the Hennepin County Housing Court Project.

## **1. Future study session agenda planning and prioritization**

Mr. Harmening noted there will be an update on the PLACE project at the November 18, 2019 study session.

Councilmember Rog asked if the historic Walker Lake parking ordinance written report for November 12 will be related to the municipal parking lots. Mr. Harmening stated he will check into this and report back.

Councilmember Rog also asked if there will be a written report on November 12 related to the Dakota south bikeway. Mr. Harmening stated yes.

## **2. Electronic delivery devices/vaping products**

Mr. Mattick presented and stated after further research, the council is not prohibited from adopting an ordinance that disallows the sale of vaping products in the city.

Ms. Boettcher pointed out there are currently 20 active licenses to sell tobacco in the city, but added 12 do not sell vaping products, while 8 do sell vaping products.

Mr. Mattick said the state of Minnesota allows municipalities to regulate the age of whom tobacco and vaping products are sold. He stated a complete ban of selling vaping products will, however, increase the likelihood of a challenge.

Councilmember Hallfin stated if the council bans all vaping products, then why they wouldn't also ban all tobacco products, since both are considered unsafe for use. Mr. Mattick again noted, the council can do this, although this has not been done in Minnesota, adding it also increases the likelihood of a challenge.

Councilmember Rog asked what the potential cost is to the city if this were to go into litigation. Mr. Mattick stated the potential costs would be difficult to determine, adding it depends because costs are covered by insurance. He noted however there is a deductible as well, and premiums typically go up after litigation. Councilmember Rog stated health and life are more important than legal fees.

Councilmember Miller stated when he brought this topic up for study session discussion, he was hoping to put a temporary emergency ban on the sale of vaping products within the city, while research is done at the state or federal level. He stated this would then allow other jurisdictions to research and catch up, adding if St. Louis Park bans the sale now, the council can come back at a later date and determine next steps.

Councilmember Brausen stated this is only about banning the sale of vaping products and not a complete ban on vaping.

Councilmember Harris asked what outreach has been done to city businesses to see how they were impacted by the ban on the sale of flavored products, and if assumptions can be made as to how businesses might be affected by a ban on sale of vaping products.

Mr. Harmening stated at this point, staff has not reached out to city tobacco license holders, as staff wanted to discuss this with council first. He added there would be further outreach and listening sessions, should the council proceed with a ban on the sale of products.

Councilmember Harris stated the health effects of vaping are devastating, with no cure, and she is open to a temporary one-year ban on the sale of vaping products in the city, while more research is conducted.

Councilmember Hallfin stated everyone is aware that tobacco products kill, adding his father passed at age 62 due to tobacco use; however, he does have an issue with taking away folks' personal freedom.

Councilmember Rog stated the difference between tobacco and vaping is that vaping is causing immediate death. She added currently the CDC is investigating this and while they are, the CDC is recommending people refrain from using vaping products. She stated the city then should ban the sales while the CDC is investigating this, and until a recommendation is made.

Councilmember Brausen stated he has concerns about banning the devices themselves and then later if marijuana use is allowed, the council would have to go back and make changes again. He stated he is in favor of banning the sale of vaping products in the city and would like to research banning possession and use as well.

Councilmember Mavity added it is in the public interest to make sure the products being sold are healthy and having time to study this makes sense. She pointed out recent bans in Massachusetts and Michigan that were ruled by a judge but did not go through the public process and therefore may be overruled. She stated she wants to be sure whatever the council

does about this is held up, has intention, a path for discovering information, and is tied to steps for a more permanent outcome.

Mayor Spano stated he too is supportive of a ban on the sale of vaping products, cartridges, and pens, but is not sure about the timeframe. He added the Minnesota state legislature will study this in 2020. He stated he has concerns about the products being sold that are not legal and the fact that people vaping are becoming ill and dying quickly.

Officer Parker stated the police force processes tobacco compliance checks twice per year and if a violation occurs, the police provide education based on current law and do a second round to check on compliance. He stated last year there were no violations on tobacco sales and only one in 2017.

Councilmember Rog pointed out the messaging around a ban will be important, while the investigations are being conducted.

Councilmember Brausen added the city recognizes there is a public health crisis now and if the council bans the sales of these products, there will be a push for more testing and regulation. He stated the council can always go back and review the ban again at a later date.

Councilmember Hallfin stated he has concerns about the council seeming to know better than everyone else on this issue, and while he does not disagree these are bad products, he is concerned the city is in its own cocoon here, adding he would like to have this brought forward at the 2020 legislative session.

Councilmember Miller added this ban shows St. Louis Park to be a leader, and others will take note, and do the same. He stated this is the best way to leverage our municipality, and not overreach. Councilmember Miller added he would not like to put an end date on the ban.

Councilmember Hallfin asked what the process and next steps are. Mr. Harmening stated staff will reach out to all licensed sellers for discussion and comment. He stated there will be a 30-day notice prior to the first reading of the ordinance, and then a public hearing.

Councilmember Mavity added staff will need to also reach out to T21 advocates, stakeholders and folks being impacted, as well as the high school.

### **3. Notice of eviction**

Ms. Schnitker presented the report and noted that the purpose of the presentation will be to review and discuss the impacts of a proposed strategy intended to promote tenant protection. She continued stating that implementation of this strategy would require landlords to provide notice to tenants for unpaid rent and the consequences of not remedying the delinquency.

Ms. Schnitker stated council directed staff to return with representatives from organizations knowledgeable about tenant/landlord law. She introduced the panel speakers: Samuel Spade and Eric Hauge from HOME Line, and Muria Kruger from Volunteer Lawyers Network & the Hennepin County Housing Court Project. Bernadette Hornig, Minnesota Multi-Housing

Association, was also scheduled to speak, but did not attend the meeting. The council asked Ms. Schnitker to follow up with Ms. Hornig and ask her to email the council her thoughts and expertise related to the proposed notice of eviction.

Councilmember Hallfin noted he is a landlord in the city and has a boilerplate lease he uses with tenants that notes if rent is not paid by 10<sup>th</sup> of the month, he can have them evicted. He noted also the city requires him to include crime free and drug free ordinance information. He asked if the notice of eviction is enacted, at the least, would owners have to include information about the ordinance in their lease agreements.

Ms. Schnitker stated the proposed notice of eviction, however, only applies to financial eviction, and only to financial obligations. She added including information about the ordinance in the lease agreement would be beneficial for tenants along with including information on the eviction notice itself.

Ms. Kruger added this information would not have to be in the lease, if there is clarity in the notice of eviction about what is owed. She noted once an eviction is filed, it is on a tenant's record unless expunged.

Councilmember Hallfin stated, however, that if council moves forward on this, it needs to be spelled out clearly in the rental license and lease agreements.

Mr. Hauge also noted the process to losing a home through a legal eviction is very fast, so the eviction notice gives the tenant and landlord time to do what they both need to do in order to either stay in the home or leave.

Councilmember Miller asked the panel to comment on why Minnesota is one of a handful of states that does not require eviction notices. Mr. Hauge stated the Minnesota eviction laws are very outdated, adding there have been no change in these laws since they were written in the mid-1970s.

Councilmember Rog asked why the eviction is a 14-day timeline. Mr. Hauge stated this matches the timeframe the landlord gets to fix or repair something.

Councilmember Rog asked if there is any data on if this is enough time for resolution. Mr. Hauge stated he does not have data on this. Mr. Spade added typically 14 days is enough time to remedy for both tenant and owners.

Councilmember Rog asked if, along with the 14 days noted in the eviction notice and the amount owed clearly articulated, is there any other information tenants need. Mr. Hauge suggested including the overdue amount, the timeline, and information on resources, legal advice, and mediators that can help tenants.

Mayor Spano stated it might be helpful to have a PDF on the city website with the additional resource information, so the landlord could attach that information to the eviction notice letter.

Councilmember Rog asked how one knows if a renter received an eviction notice, and if the renter knows their rights. Ms. Kruger stated the notice must be included with the complaint, and if it is not attached, there would be a defense for the renter. The renter must see the breach in the lease and added this is where the right to counsel is important.

Councilmember Harris asked if the apartment industry is interested in having a pre-eviction notice available. Mr. Hauge stated most professional management companies do this already but formalizing this will make it clearer and more official in the eviction notice.

Councilmember Harris asked if this is on the city's legislative agenda topics for 2020. Ms. Schnitker stated yes.

Councilmember Brausen stated he does foreclosure evictions for homes, which take up to one year. He stated he will support the notice of eviction adding his concern was looking from the point of view of the smaller landlord. He stated the smaller landlord was a bigger issue when they don't get their rent payment on time, as then they can't make their mortgage payment.

Councilmember Brausen added more legal counsel will be helpful for tenants and smaller landlords and would provide an opportunity for folks to get funds and resources pulled together. He added the notice should go out on colored paper in order for folks to see it easier.

Councilmember Mavity stated this process must be clear and clarity in the letter is important on what's allowed and what's not.

Councilmember Mavity asked if a payment is behind, and it is paid within the 14 days, does the tenant go back to a clean slate. Mr. Hauge stated yes, or the tenant can just move out if they cannot pay, which is better than getting an eviction notice on your record.

Councilmember Mavity stated the laws are written by those that control the resources, and it feels like the balance is so far against folks. She stated this needs to be rebalanced and is part of the city's race equity work as well.

Mayor Spano stated the notice of eviction is common sense, and the council supports this work unanimously. He added this needs to be done in conjunction with noting of resources available.

Councilmember Rog stated she supports this and wants to be sure the city does not give false hope to folks. She added STEP offers local support and with not as rigid limitations, adding it might make sense for the city to boost its emergency resources through STEP.

Mayor Spano agreed and stated the council would need to discuss this with STEP and the head of the organization as well.

Councilmember Mavity added staff must do outreach to stakeholders as well as property owners.

Ms. Barton noted HOME Line has done much outreach to stakeholders, and now the city will need feedback from landlords also, which will take some time.

Councilmember Mavity added she wants to be sure there is much depth in outreach, conversations with landlords, and the same amount of balanced time for tenants.

### **Communications/meeting check-in (verbal)**

Mayor Spano reminded folks of the upcoming election on November 5 and added there is daily early voting at city hall from 8:00 a.m. – 4:30 p.m. on weekdays and this upcoming Saturday from 10 a.m. – 3 p.m.

Councilmember Harris stated she had a request from the Block Restaurant owner, that they are interested in putting a dog park in their area.

Councilmember Mavity referenced the written report on the transparency guidelines and stated she did not see the reasoning behind the reduction in transparency from 65% to 50%. Ms. Barton stated the planning commission felt it was too much transparency at 65% and did not allow enough flexibility for tenants to utilize the space.

Councilmember Mavity asked for information on transparency in other cities and how St. Louis Park compares. Mayor Spano pointed out in St. Paul, there are different requirements for transparency in different parts of town.

Councilmember Mavity asked if developers can do half of the building as a wall and other half as glass, in order to create a pedestrian experience. Ms. Barton stated she will check on that.

Mayor Spano pointed out it depends on what is done with the wall space, noting it could be engaging artwork.

Councilmember Brausen stated he is happy to see the housing improvement association is being pulled together for Cedar Trails south.

Councilmember Brausen asked if the moratorium on off-sale intoxicating licenses will be extended again. Mr. Harmening answered yes, and the council will be asked to approve it again.

Councilmember Brausen asked for this item to be put on the regular agenda, and not the consent agenda.

Councilmember Rog announced the meeting on Tuesday, October 29, 6 p.m., at Parkway 25 with Sela regarding the new residences behind the Shoreham.

Mr. Harmening noted there is online training and certification for LBAE for anyone interested on the council. Councilmember Harris expressed interest.

Mr. Harmening also noted the Department of Justice has signed off on the Reilly consent decree, and now it will go to the federal district court judge for final signing. He added the Walker Lake solvent plume is also in process and will be listed on the federal register in late

October or early November. He stated the public comment period is currently open and there will be an announcement and update on this next month.

The meeting adjourned at 8:50 p.m.

Written Reports provided and documented for recording purposes only:

- 4. September 2019 monthly financial report**
- 5. Third quarter investment report (July – Sept. 2019)**
- 6. South Cedar Trails Homeowners Association Housing Improvement Area (HIA)**
- 7. 2020 Zero Waste Packaging Acceptable Materials and Exemption List and Administrative Rules report**
- 8. Update- PLACE Via Sol and Via Luna projects**
- 9. Zoning guidelines for ground floor street facing transparency requirements**
- 10. Proposed rezoning of some C2 parcels to C1**
- 11. Off-sale intoxicating liquor licenses**
- 12. Community technology advisory commission update**
- 13. Cable television franchise renewal needs assessment update**
- 14. Municipal state aid system revisions**

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Melissa Kennedy, city clerk

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Jake Spano, mayor