

**City of West St. Paul  
Open Council Work Session Minutes  
September 23, 2019**

**1. Roll Call**

Mayor Napier called the meeting to order at 5:00 p.m.

Present: Mayor Dave Napier  
Councilmembers Wendy Berry, Anthony Fernandez,  
John Justen, Lisa Eng-Sarne, Bob Pace and Dick Vitelli

Absent: None

Also Present: City Manager Ryan Schroeder  
City Attorney Kori Land  
Interim Police Chief Brian Sturgeon  
Fire Chief Mark Juelfs  
Human Resources Director Debra Gieseke  
Finance Director Char Stark  
Parks & Public Works Director/City Engineer Ross Beckwith  
Community & Economic Development Director Jim Hartshorn  
City Clerk Shirley Buecksler

**2. Review and Approve the OCWS Agenda**

Councilmember Eng-Sarne asked if we can discuss the expectations around the YMCA and the Police Chief process and how Council should respond.

Mayor Napier asked City Attorney Land for advice. Land said it can be added to the agenda on how to address issues that come up with the Council meeting.

Council approved the OCWS Agenda, as presented.

**3. Review the Regular Meeting Consent Agenda**

Mayor Napier read through the items on the Consent Agenda and asked Fire Chief Juelfs about the South Metro Fire Budget/Levy item.

Fire Chief Juelfs said it is a status quo budget for 2020. The only increases are contractual with wages, and PERA made increases in 2019 and one in 2020. The contractual changes are higher than the actual budget, so they made deductions in other areas to offset it, Juelfs said. Mayor Napier said that he and Councilmember Berry sit on the Fire Board.

Councilmember Berry asked about Item 9N, Robert Street Sidewalk Snow Removal Contract Extension and said she talked to City Manager Schroeder about it today. Schroeder said in the past 30 years or so, the City has been providing for snow and ice

removal off Robert Street. At the end of the season, the total cost is assessed. This year, we are proposing to follow a 429 process (a public improvement process), which is permitted, he said. We have to get that process moving in order to provide adequate notice. We also have the contract on this agenda for approval. It could snow as early as October 15, so we have to get that moving, as well. Same as last time, we are also asking for the Charter Commission to discuss the special authority within the Charter. We don't need that Charter authority, specifically, if we follow 429 from this point forward. If the Charter provides special authority outside of that 429 process, in theory we could go back to the way we've been doing it up until this year, Schroeder said. He added that we believe 429 and Charter authority is a good thing but it needn't impact whether or not Council's approves the contract. Schroeder said he thinks we need to enter the contract because we don't want to risk being in a position of having to foot the bill unless Council decides not to assess.

Councilmember Berry asked if there are other things to be considered with the 429 process. For instance, things we've been doing and shouldn't have been. Schroeder said not that he knows of. Typically, what folks like the City Attorney would say is, unless it's specifically authorized, it's not authorized, he said. The only faux pas here isn't that we've been doing this, it's that we haven't followed the 429 process.

City Attorney Land said we have been following a process but under the nuisance abatement. They had been given notice, just not the full blown notice that we are ordering the project from beginning to end, she said.

Councilmember Pace asked if we are going for a three year contract, being that the process may change. Schroeder said it's two years and all based on how much snow we get. Councilmember Pace asked if two years is smart to do, if things change in the next year. Schroeder said he likes stability and that knowing what is in your future is a good thing.

Council approved the Regular Meeting Consent Agenda, as presented.

#### **4. Agenda Item(s)**

##### **A. Closed Session Pursuant to Minnesota Statute 13D.05 Subd. 3(b) for Attorney-Client Privileged Communication to Discuss the Fulton Investigation**

Motion made by Councilmember Vitelli and seconded by Councilmember Berry to close the meeting at 5:08 p.m.

Council asked questions and received answers.

Motion made by Councilmember Berry and seconded by Councilmember Justen to reopen the meeting at 5:12 p.m.

**B. Sidewalk Funding / Livingston Assessments / Assessment Policy**

Schroeder said the 2019 Street Improvement Project on Livingston Avenue (Thompson Avenue to Mendota Road) was calculated with the City’s Public Improvement and Special Assessment Policy updated in April 2018. At the time that the preliminary assessments were calculated in September 2018, sidewalk and lighting were planned between Thompson Avenue and Wentworth Avenue, which eventually came out of the plan.

The assessment policy states that new sidewalk is assessed at 100% of the cost to properties on both sides of the street and replacement sidewalk is assessed 25%. Cub Foods, LA Fitness, the West St. Paul Sports Dome (and parking lot across the street) all had existing sidewalk, which was not replaced and, therefore, they won’t be assessed for new sidewalk. The remaining properties between Wentworth Avenue and Mendota Road will be assessed.

Based on actual bid prices and estimated final construction quantities, Stark said per foot assessment amounts for this project are:

**2019 Street Improvement Project -Livingston Ave Assessments (per foot)**

Street Assessment/New Sidewalk Assessment Rate	25%/100%	25%/25%	25%/0%
Thompson to Wentworth Street (25%)	<u>\$ 57.69</u>	<u>\$ 57.69</u>	<u>\$ 57.69</u>
Wentworth to Mendota Street (25%)	57.69	57.69	57.69
Street Light (replacement)	6.23	6.23	6.23
Sidewalk (new)	19.34	4.84	-
<b>Total Assessment per foot</b>	<u><u>\$ 83.26</u></u>	<u><u>\$ 68.76</u></u>	<u><u>\$ 63.92</u></u>

A benefit appraisal was conducted in 2018 for the different types of properties along Livingston Avenue. At the time of the preliminary assessments, eight properties fell outside of the benefit appraisal and their assessment amounts were capped. If only 25% of the sidewalk is assessed then five properties remain outside of the benefit appraisal amount so their preliminary and final assessments would be the same.

The total project cost is estimated at \$4.41M which includes construction, engineering, surveying, soil borings and materials testing. Assessing 25% of the sidewalk cost would put the total amount assessed around \$780k. This meets the 20% criteria needed for the issuance of bonds. Funding sources for the 75% not assessed would come from the premium that was earned on the issuance of the bonds. That premium came in at \$159,724.

Additionally, Stark said Council was provided with the West St. Paul - Dakota County projects, which are all high priorities in the Dakota County CIP plan. Stark said she added this list to the City's CIP as Dakota County Led projects. We don't have time frames or cost to the City at this time. I have also added to the CIP plan an allocation of \$500,000 starting in 2021 for sidewalk/trails. This will be put into a separate capital project fund for sidewalks/trails. The funds will be utilized when an appropriate projects falls within the road construction program or when third party money is available and the City has a matching requirement. This will be added tax levy for each year. This allocation adds nearly 2% to the tax rate going forward. Example - in 2021, the projected tax levy before the allocation was 70.063%. With the allocation of \$500,000 the new projected tax rate will be 72.489%.

In 2011, the City endeavored to study its pedestrian and bicyclist facilities to provide a long term plan to improve from the existing condition. It contracted with the planning firm of Hoisington Koegler Group. The citizen participation portion of the planning project was from April to October, after which the City Council accepted the Bicycle and Pedestrian Master Plan dated December 5, 2011. The plan is a "tool to guide the long term efforts (25 years or more) to physical projects, programs and policies that will support walking and biking in West St. Paul.

The Priorities identified within the plan are the following routes with current status as:

- NURT (AKA River to River Regional Trailway)
  - Segment from Wentworth to Oakdale/Thompson scheduled for bid by County June 2020
  - Segment through Marthaler Park conceptually designed but not funded
  - Segment north of Oakdale/Thompson included in 2019 SHIP planning grant request
- Charlton from Annapolis to Marie
  - Walkway exists on at least one side of the road, some areas both sides (Emerson to Butler and Arion to just north of Bernard)
- Robert Street from Annapolis to Mendota Road
  - Completed as part of the 2014-2017 Robert Street Reconstruction
- Livingston from Wentworth to Mendota Road
  - Completed in 2019
- Oakdale from Bernard to Emerson and from Thompson to Mendota Road
  - Segment from Mendota Road to Wentworth completed in 2019
  - Segment from Bernard to Emerson:
    - Emerson to Westchester no walk
    - Westchester to Conver walk on west side
    - Conver to Bernard walk on both sides
- Bidwell from Butler to Thompson
  - Annual Safe Routes to School Grant funding request; not yet funded
- Marie from Delaware to Oakdale
  - Final segment complete in 2019
- Butler from Delaware to Highway 52
  - Delaware to Smith no walk

Smith to Manomin walk on north side only  
Manomin to Stassen walk on both sides  
Stassen to Hwy 52 no walk

Additionally, Main Routes were identified as:

- Delaware from Annapolis to Marie  
Included in 2020-2029 City CIP as 2025 project; requires County and Mendota Heights approval
- Wentworth from Delaware to South St. Paul  
Segment from Delaware to Robert completed in 2019  
Ped Crossing at Marthaler Lane scheduled for 2020  
Marthaler to Oakdale existing trail  
Oakdale to Meadows trail through Sports Complex  
Meadows to TH 52 trail on south side
- Mendota Road from Delaware to South St. Paul  
Delaware to Charlton no walk  
TH 62 intersection to Robert walk on north side  
Robert to Oakdale walk on south side (IGH)  
Oakdale to TH 52 walk on both sides

In addition to Priority and Main Routes, the plan identifies lower priority local and access routes. On May 24, 2019, Engineering estimated that completion of gaps within the entire Bike/Ped plan could be accomplished at a cost of \$15 million plus the cost of any necessary right of way or easement acquisition. Some segments will be constructed as part of development and redevelopment projects. Others would be coordinated with roadway reconstruction projects. Third party/grant funding of Priority and Main routes are continuously sought.

As part of its Capital Improvement planning, the City Council has identified a need to allocate property tax levy dollars toward completion of the improvements identified within the Pedestrian and Bicycle Master Plan. This allocation, estimated at an average of \$500,000/year beginning in 2021 will result in a projected average cost of 2 points in the levy rate beyond what the rate would be absent the allocation.

Mayor Napier said we need to think that way if we are going to make a move. He said we have funding in place.

Councilmember Pace asked if \$500K was thrown in, thinking of the projects coming in the next three to five years because that would be a solid number. Schroeder said no, that they thought about what would be a reasonable number. He said Beckwith thought about if right-of-way is excluded, you have \$15M of trail and sidewalk that needs to be done within the community. If you look at the primary and main arterial sidewalks, that is a low number. Part of what Stark mentioned, he said, in June the County adopted this priority list of sidewalk and trail gaps. Five are in West ST. Paul and four of those five are in the County's top seven. One might have an expectation that the County has a bit of motivation as it relates to some of their trail gaps that are

similar to some of ours. The City may want to continue to follow the path we have, such as if we can find third party funding or have the County fund their priorities. Schroeder said we would chase that first.

Councilmember Fernandez said it seems to him that the big thing is the easement acquisition. He asked if there is legal precedence in standards of payment and if we are starting from zero every time, with every individual, for every negotiation.

City Attorney Land said each will need to be taken on its own. Any property owner can challenge that and come back with their own benefit appraisal. She said you try to get a generalized appraisal that will apply across each class of property but, in the end, it's going to come down to the battle of the appraisers.

Councilmember Fernandez asked if it's a little simpler comparing with Robert Street because you don't have access. He questioned if the City has a right-of-way of 6 feet. Beckwith said you could say 10 or 12 feet to be safe but there are a lot of factors. Beckwith asked how you transition within the right-of-way. Looking at Marie and Oakdale, those costs are \$350/foot.

Councilmember Fernandez said we almost have to create a fund specifically for that. Schroeder said if you have a levy in 2021 that generates \$500K, that doesn't mean you have a lined up project for 2021. It just creates the revenue and the cash. He said you know you have projects coming up and a great example is Delaware in 2025. There will be walkways associated with that, he said.

Councilmember Fernandez asked if it helps in the momentum process to see this project as you go to apply for grants. Schroeder said it certainly helps to say you have the local match. But you also have to have other things lined up. It has to appear in your plan, and safe routes. We think we have a good story to tell, he said.

Councilmember Fernandez said he had heard from the Met Council that they wanted to give money but didn't feel the City had enough pieces in place for one of the grants.

Mayor Napier asked Council for their direction.

Councilmember Vitelli said he won't be voting on it but will give his opinion. Sidewalks should be paid by taxes citywide, whether it's 25 or zero. He said he won't be voting because he has financial interest on Livingston.

Councilmember Pace said he zero for this project and that he likes the work Staff has done for future sidewalks.

Councilmember Justen asked when you say zero for this project, if that also means zero for other projects going forward. He said he wants to be sure we are consistent. Councilmember Pace agreed.

Mayor Napier said the problem is you're moving forward without a plan in place by Council and asked for Schroeder's opinion. Mayor Napier said he is fine with zero because he agrees with Vitelli 100% but that we have never implemented it and put it in place. He said he is concerned about having a plan in place. If, in fact, we go zero here but don't have a plan in place for another project, Mayor Napier said it would be ugly.

Schroeder said whatever number Council chooses, Staff would come back with an amendment to the assessment policy.

Councilmember Justen said we are in agreement. He said he wants this number to be the number moving forward and that it is agreed upon around the entire table and that we will not shift up or down. He said he would be very uncomfortable with them getting a better or worse deal than others.

City Attorney Land said this is the first to be charged. Beckwith added that the plan was adopted in 2018.

Councilmember Pace said, to Councilmember Justen's point, he thinks that is why they created the \$500K/year fund. If we go to zero here, it's zero until a future Council changes it.

Councilmember Justen said he wants to be clear that it is a statement of policy and what it will be when it is written.

Mayor Napier asked who paid for sidewalks when they went in on Marie. Beckwith said they were not assessed, and that's when talks started about a citywide assessment policy.

Councilmember Justen said if that's the case, it seems we have already established it at zero.

Mayor Napier said he thought we had charged. City Attorney Land said alleys were controversial and assessed but she doesn't think sidewalks were. Mayor Napier asked Schroeder to check on that.

Councilmember Eng-Sarne said that Schroeder has done such a good job to condition Council not to worry about cash but that she is listening to Councilmember Pace and Mayor Napier and their experience, as well, because they have engaged on this topic a lot. She said she is more keen to saying zero than she was before.

Councilmember Justen said going to zero could slow the speed at which we do projects. He asked if we can move forward at the speed we want to because, last time, it was mentioned that this could delay projects. Councilmember Justen asked if we have offset that so we can move forward as a replacement for assessments created.

Schroeder said the \$15M number plus right-of-way, at \$500K it's going to take a long time. Just funding it out of the \$500K is 30 years plus right-of-way. He said he would anticipate there would be third party funding for at least a portion of that.

Schroeder said if you were assessing for sidewalks at 25%, that's \$3M of the \$15M that would be assessed at 25%, so you would have \$12M. He said it could slow down what it would otherwise be. Beyond that, however, he said he personally has a hard time differentiating between street pavement, curb, and sidewalk. But whatever the Council wants to do in policy, he said Staff will implement it.

Councilmember Justen said his goal is to get 100% of sidewalks in as many places as we can, as quickly as we can. If 25% moves us forward at a faster clip, he said he is willing to assess at 25%. The end goal is to get this done as quickly and as well as possible. He said he would consider 25% if others are more comfortable with that and if it moves us forward.

Mayor Napier said the other option is a citywide assessment that we could develop. He said we haven't really sat down and developed that.

Schroeder said on that, an assessment versus a levy, there are differing impacts on properties of different market values. But from a business perspective, it's operating cost. From a residential perspective, it's not.

Councilmember Fernandez said he wants 0.0.

City Attorney Land said we just need direction so Staff can get out assessment agreements.

Mayor Napier said to move it to the agenda.

Schroeder said we have a schedule to come back with a quick and easy change in the assessment policy.

Councilmember Fernandez suggested putting out a blurb on it because it's a large change for residents. Schroeder said Staff can do that.

Mayor Napier said Beckwith will bring it forward to another agenda for approval.

Resident Dave Langer addressed the Council and said he appreciates Council making streets walking and user friendly. He said he thinks it's a great thing and appreciates the Council's attitude toward zero percent.

### **C. Massage Therapy Ordinance**

Interim Police Chief Sturgeon said City Ordinance 111.04, Massage Therapy, specifies two different type of massage licenses. A Massage Therapist License is for



an individual who provides massage services to the public within the city. These individuals work in an establishment or for an employer who holds a Therapeutic Massage Business License or for a business or individual who is exempt. Exemptions include medical facilities, nursing and group homes, and massage schools in which a student is completing a required clinical component of the education curriculum. State licensed beauty culturists and barbers are exempt as long as they only perform massages to certain parts of the body. They cannot provide massages to the back, shoulders, arms, or legs.

Therapeutic Massage Business Licenses are for individuals or entities that own, operate, engage in, or carry on, within the city, any type of massage services to the public for consideration.

There are limits to the number of Massage Therapist Licenses as well; 20 with 15 accounted for. The number of Therapeutic Massage Business Licenses is three and all have been issued.

Roxane Buranen holds an individual Massage Therapist License and works at Center for a Balanced Life located at 1545 Livingston Avenue. Sister Rosalind Gefre was the CEO and/or owner of this establishment and, with her holding a Registered Nursing license, the business was exempt from a required Therapeutic Massage Business License. Since Sister Rosalind retired and is no longer affiliated with Center for a Balanced Life, Roxane Buranen is now required to have a Massage Business License.

Cody Schniepp and Todd Uhlenbrauck hold individual Massage Therapist Licenses and work and operate out of hair salons in town. They have held these licenses since at least 2012. Since they work in an establishment that is not exempt from obtaining a Therapeutic Massage Business License, they are required to hold one to operate.

On August 27, 2018, a Conditional Use Permit (CUP) was approved for A Learning Center, which is intended to be a massage instruction school located at Amazing Spa, 1891 Robert Street South. The owner of Amazing Spa holds a Therapeutic Massage Business License; however, the applicant for the CUP is a different person than the owner of Amazing Spa. The CUP requires "The applicant shall maintain an annual City license for a massage business." The applicant has not applied for a license and we believe A Learning Center has not started their venture.

The owners of Sola Salon which is located in the 1700 block of Livingston Avenue is planning on having at least two massage providers. These individuals would need a Therapeutic Massage Business License and a Massage Therapist License.

Based on the above information, there are requests for at least five additional Therapeutic Massage Business Licenses and potentially six if A Learning Center starts operations.

The Massage Therapist Licenses that may be issued will be 17, close to the cap of 20.

Staff believes we can keep the number of Therapeutic Massage Business Licenses at three with the addition of language in the ordinance that states something similar to “If an individual is a sole business owner, has no employees or subcontractors and they are the only person performing massage therapy, they will not be counted under the business license cap, but will be required to obtain a Therapeutic Massage Business License.”

If Council agrees to move forth with amending the ordinance, Sturgeon said Staff is requesting a change in the inspections section of the ordinance. Currently, during an application for Massage Therapy Business License, the Police Department and a Building Official must investigate the premises where the massage therapy business is to be carried on, for the purpose of ensuring that the premises comply with all the sanitation requirements and with the regulations of public health, safety and welfare, pursuant to city ordinance. Staff is requesting wording to make it clear that inspections will take place not only at the initial application but during a renewal application period, as well.

Council should discuss feasibility to increase the number of Therapeutic Massage Business Licenses, incorporate similar wording into the ordinance that Staff provided which will keep the cap at three or move in a different direction. Council should also discuss amending the ordinance to ensure that inspections are completed during the initial and renewal application period. If Council agrees to modifications to the ordinance, we could have a first reading at the next Council meeting.

Sturgeon said one of the owners of Sola Salon is here if Council has any questions for her.

Councilmember Fernandez said there should be no caps because massage therapy is growing. He said we shouldn't be limited anyone from performing their art.

Councilmember Eng-Sarne said we know that illicit massage business is the second most and is a \$2.5 billion dollar industry. People are trafficked, so for some reason like that, you may need a cap. She said she doesn't know if the Police Department or Fire Department has an idea of what an unmanageable number is where you won't know what's going on inside of buildings. Sturgeon said it seems time and time again that these establishments are raided for human trafficking. He said he would like some ability to manage and inspect these facilities.

Mayor Napier said no city is exclusive from this and that it is important to have a manageable number to control.

Councilmember Berry asked if we know what that manageable number is. Sturgeon said he doesn't see 25 to 30 licenses coming into town, so he is unsure. He said he is more worried about the storefront licenses, which there are currently three.

City Attorney Land said an alternative is if you do let them come in without a cap, they would still be monitored and inspected and therapists must meet the standards, but there is still the backroom stuff you're not really sure about what is going on. Perhaps the cap is for if they have more than a certain number of employees. More than four licensed therapists in the business. It's not the one or two-person businesses, she said. It's when you get over so many massage therapists, those are the ones you want to keep a lid on, she said.

Sturgeon said he slightly disagrees with Attorney Land. One of the storefronts only has two employees with licenses operating right now. He said he is not saying that they are a problem but he would like it a lot less than four.

The owner of Sola Salons said they have seven Sola Salons in the Twin Cities, soon to be eight. This location in West St. Paul has the biggest prelease ever, she said. They already have over 30 beauty professionals who have put down deposits and one is a massage therapist. And another who half of their work is massage therapy. This therapist sees this location as her freedom to plant her business and have more time with her family, she said. She added that they have security cameras everywhere. They have professional management, a dedicated manager, full-time maintenance crew and cleaning crews. They all talk and tell us what's going on, she said, so there are no worries about illicit activity in their building. She said if there was, they would know. After hours, she said the front doors are locked and everyone uses a security fob to enter. Clients use a call box and need to be buzzed in, so there is a record of who is coming in the building. She said they have a lot of different security measures in place.

Councilmember Pace said we are looking for common ground for individuals to operate out of, such as Sola Salon.

Mayor Napier said it's a shame that that has to ruin a respected and needed profession but it does and we just want to be proactive.

Councilmember Justen asked if we are at the cap of three. Sturgeon said yes and that we are bringing wording that individuals at Sola Salon or independent contractors would not be counted against that cap.

Councilmember Justen asked if we should consider raising the cap to four or five and if that would still be manageable. He said he prefers not to have an infinite cap but would also want to allow good quality businesses to come here.

Sturgeon said with the number of individuals who have spoken up, most of them are independent contractors that work at these establishments.

Councilmember Vitelli said it sounds like we can handle Sola Salon and asked if we still need to address the cap.

City Attorney Land said yes, because they would have to get a business license. She said they are each their own business.

Councilmember Berry asked if we have turned anyone down, with the number of businesses and the hard cap. Hartshorn said not that he can think of for massage therapy.

Councilmember Vitelli said he wants to accommodate Sola Salons.

Mayor Napier said if a business approaches the City but the limit has been exceeded, they could come forward to Council. Right now, we need to assist Sola Salons and the others to move forward.

Councilmember Fernandez said he thinks it's counter intuitive to not raise the cap. When people are going through the City's documents, they could see that, and they may not call to find out. Councilmember Fernandez asked when the last time a massage place had a criminal offense. Sturgeon said within a year. Councilmember Fernandez asked if it has been typically the same place. Sturgeon said yes and that he would hate to bring legitimate businesses down because of one.

Councilmember Berry said she is concerned about applicants going to Hartshorn every time. If we say no to the next person, she asked if race or anything could become an issue. She said a cap is straight forward.

Councilmember Eng-Sarne proposed doubling the cap to six. Council agreed.

Sturgeon asked about including the language that these individuals do not count towards the cap. Council agreed.

Councilmember Pace asked if there is a number of times that a particular business will be investigated and if there is language to use. Sturgeon said we have to substantiate the claims first. Whether or not it's a serious or minor violation, but any major violations come in front of Council to be addressed.

Councilmember Fernandez asked if this is an ongoing investigation. Sturgeon said no, there is no ongoing investigation.

Mayor Napier directed Staff to bring this forward to the next agenda and welcomed Sola Salons to West St. Paul.

#### **D. Tobacco 21**

Interim Police Chief Sturgeon said that the "Tobacco 21" campaign has been ongoing in the State of Minnesota and across the country for several years now. This campaign promotes and endorses raising the minimum legal age for tobacco and nicotine sales to the age of 21.

In June of 2018, Council took up this topic and was presented with information about the Tobacco 21 campaign. Information at the time was provided stating that only six other cities in Minnesota had adopted ordinances restricting the sale to those of 21 and older. In addition, it was relayed that four states had also passed this law statewide.

Currently, and this is rapidly changing, there are 35 cities in Minnesota that have local ordinances restricting the sales to those 21 and older. There are six counties that have countywide restrictions and 16 states that have statewide restrictions.

In Dakota County, there are two Cities that have restrictions: Mendota Heights and Lilydale. Lakeville City Council discussed this topic recently and decided to leave the age at 18. Hastings will be having discussions on this topic next month. Five other Cities have had no discussions on this topic.

Staff has already notified all licensed tobacco merchants that this discussion will take place at today's Council Work Session with a first and final reading potentially taking place in October. Feedback was also requested from the merchants.

Sturgeon said Council should discuss if they want to proceed with restricting the sales of tobacco products to only those 21 years of age and older. If so, review the draft ordinance to ensure it meets Council's goals.

A discussion should take place as well on the effective date, Sturgeon said. Staff recommends a January 1, 2020 effective date. This will give Staff time to educate license holders by providing informational materials in their license renewal applications that will be going out shortly and allows the merchants time to place additional signage and modify work practices.

Notices were sent to all licensees three weeks ago that this would be up for discussion tonight. One, Steven's Tobacco, had no issue with it but wanted a little time to adjust how they do business and prepare for it. Walmart also contacted him (corporate). They fully support it and currently do not, as company policy, sell to anyone under 21. The City would provide signage to the tobacco licensees to put on their doors, point of entry, or register, Sturgeon said.

Mayor Napier said he thinks we should do this. The State has failed to do it, so we need to do it as local government.

Councilmember Berry asked if kids will be pulled over for smoking under 21? Sturgeon said no. City Attorney Land said it's no change from what is in the ordinance now.

Councilmember Pace said he was hoping that our State would take care of this last year and agrees with Mayor Napier that we need to get this done.

Councilmember Vitelli said he was in Walgreen's today and saw that they don't sell to anyone under 21, effective as of September 1<sup>st</sup>.

Sturgeon said Staff is requesting that this take effect January 1, which will give us time to put a notice in with license renewals and get the licensees up to speed.

Mayor Napier asked if any businesses were in attendance tonight but received no response. He asked if we can move the resolution to the Regular Council agenda as a first reading.

Councilmember Justen asked if there is any concern that we didn't send anything out that it would be a first reading at a later meeting? City Attorney Land said this is a first reading only and that there will be a Public Hearing, as well.

Sturgeon said the letter informed licensees that it has the potential to come forth to Council in October.

Mayor Napier that having the first reading tonight will enact it quicker. City Attorney Land said it will also give everyone more time to get ready for the January 1, 2020 effective date.

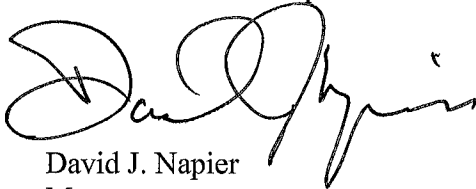
Council agreed to a first reading of the Tobacco 21 ordinance tonight and added it under New Business as Item 11D.

Councilmember Pace questioned Item 10A on the Regular Council agenda for a Conditional Use Permit for 240 Thompson Avenue East. His question was whether it was stated in the Council packet that it will be continued to the next Council meeting. Schroeder said yes, that it will be continued to the October 28, 2019 City Council meeting.

## **5. Adjourn**

Motion was made by Councilmember Vitelli and seconded by Councilmember Justen to adjourn the meeting at 6:06 p.m.

All members present voted aye. Motion carried.



David J. Napier  
Mayor  
City of West St. Paul