A. CALL TO ORDER: The City Council of Inver Grove Heights met for a Work Session on Monday, January 4, 2021. The meeting began with a Swearing In of the new Mayor and two new Council Members at 6:00 p.m.

1)   Swearing in of New Council:
Former Mayor George Tourville stated he has worked with Councilmember Bartholomew on the Council for the last eight years and is honored to be Swearing him in. He began with the Oath, Swearing In, and signing with Tom Bartholomew for the position of Mayor. George Tourville stated this was his last official duty after serving for 39 years with the City of Inver Grove Heights. He wished the Council the best of luck.

Judge Vicki Vial Taylor was in attendance for the Swearing In of two new Councilmembers.
John Murphy was first for the Oath, Swearing In, and signing for the position of Councilmember.
Susan Gliva was next for the Oath, Swearing In, and signing for the position of Councilmember.
Photos were taken.

Mayor Bartholomew called the meeting to order at 6:08 p.m. The Pledge of Allegiance was recited.
Roll Call: Present In-Person: Mayor Bartholomew; Council Members; Piekarski Krech, Dietrich, Murphy, and Gliva; City Administrator Joe Lynch, City Attorney Bridget McCauley Nason, and City Clerk Rebecca Kiernan. Present via Zoom Video Conferencing: Technology Manager Marc Gade and Pam Whitmore; League of Minnesota Cities.

2)   City Council Protocols/Decorum discussion:

City Administrator Joe Lynch stated Pam Whitmore with the League of Minnesota Cities is joining via Zoom with a presentation.

Pam Whitmore, Collaboration & Mediation Manager, League of Minnesota Cities Insurance Trust, stated she runs the Collaboration Program that involves going around to different City Council's across the State and giving workshops on items Councils want to learn more about. This could include: Conflict, Governance, Communication Practices, Open Meeting Law, and Social Media. There is also a newly Elected Leadership Institute. It is a combination of online courses, virtual interaction, and follow up streaming that takes place at the end of January. If anyone is interested information is on the League website.

She suggested the Elected Officials introduce themselves and if they had a chance to do one of the Readings, what they found important for being a group decision maker.
Councilmember Rosemary Piekarski Krech stated she has been on the Council for a long time. One of the strategies was listening, it is extremely important.

Councilmember Sue Gliva, just sworn in as Councilmember, stated one of the things she found interesting was a section that spoke of doing a lot more listening, understanding backstory, and point of view better. This helps understand where people are coming from to begin with rather than concentrating on what needs to get done.

Mayor Tom Bartholomew has been on the Council for eight years and is the newly Elected Mayor. He stated he found the points of reference to problem solving, engagement, and results driven conversation within the reading material.

Ms. Whitmore stated the Readings come from a book called Difficult Conversations. She had copies for everyone.

Councilmember Brenda Dietrich is in the middle of her first term on Council. An item she found interesting is that it is important to know what other people's communication style is. For example: someone who is concise, to understand they do not want small talk, they want facts. Meeting people where they are at is very valuable.

Councilmember John Murphy, newly sworn in as Councilmember, stated the information about listening was intriguing and about how an individual's past leads to their perspective and communication styles.

Ms. Whitmore stated Elected Officials are transitioning from running for Council and entering into the world of being one of five decision makers. It is not always about how to agree, but having discussions, conversations, and roles. Coming together is the Election part, staying together is working in the meetings, and then working together, and having that success.

Making the transition to being a group decision maker brings in one's own ideas and experience. Mind setting to listen and understand perspectives of others who are a part of the group. The City will benefit overall by hearing everyone's perspectives. She stated there will be discussion about how to listen and how to ask questions. How questions are asked and how one listens can make a huge difference for communicating as a group. When being one of five, it is very important to make sure that nobody feels left out. The entire City is the customer base. The ultimate goal is not just compromise; it is integration.

Ms. Whitmore stated the Council's role is Mission and Policy, for the City to have good policy and communication between Staff and Council. Inver Grove Heights is a Statutory "A" City with five Councilmembers. Under Minnesota Statutes go to Chapter 412 to see what Councilmembers duties are. In talking with other Statutory Cities, it may be noticed that some Cities do things differently. Every City is different and in charge under 412,211 of creating policy to conduct their own business. There are specific Statutory duties located under 412,221. Those include:
- Working only as a Body
- Getting information from Staff
- Conduct City Finances
- Adopt Ordinances
- Adopt Budget
- Vacation of Streets
- Establish Advisory Boards
- Establish Policies and Rules of Procedure
- Other specific duties as specified in Statute

Leadership duties:
- Group decision maker.
- Have information gathering and decision making inside of meetings.
- Coming prepared to the meetings, asking questions ahead of time. This respects Staff time.
- Running the meeting. Respecting everyone has the time to have their dialog and debate.
- Sometimes issues can become very personal. Asking in a different way makes people less defensive.
- Listening to Learn.

Ms. Whitmore asked those who have been on the Council (Piekarski Krech, Bartholomew, and Dietrich), if there has been opportunity to share with new Councilmembers common communication practices, how items go on the Agenda, or how to get information from Staff.

Mayor Bartholomew responded not as much time as they would like. They are all distanced. There was a structured meeting with Administration, Department Heads, newly Elected Officials, and existing Officials. He does not believe they have had enough discussion regarding Agendas and Communications.

Councilmember Piekarski Krech responded she learned those protocols when newly Elected and met with the City Administrator, City Attorney, and went to the Leagues Training Program. She commented it is difficult with the Open Meeting Law.

Ms. Whitmore responded the Open Meeting Law is meant for Official City Business. Some operational items will not be covered under the Open Meeting Law. Speaking to one person would be fine. Some questions would be: About an Agenda Item, proper protocol, how to get questions answered, is it through the City Administrator, or through Staff copying the City Administrator. She stated in working with other Cities one of the biggest things causing some to feel they are not a part of the team is feeling like there are discussions that do not include them, do not know processes, and do not feel a part of it.

Ms. Whitmore stated the Mayor runs the meeting, is the symbolic head of the City. She asked if he is the tiebreaker.

Mayor Bartholomew responded he was not sure he was the tie breaker, or if they could have a tie with five.

Ms. Whitmore responded with Statutory Cities is there is no one who can break the tie. One exception would be if there is a vacancy on the Council. The Council fills that vacancy by Resolution and fills the vacancy position. If there is a two/two tie on the person in the position, the Mayor breaks the tie.

Mayor Bartholomew stated current voting is done in rotation. Whoever was first goes last on the next vote. They very seldom have the same person to get to a two/two vote.

Ms. Whitmore discussed Keys to Successful Collaborations:
- Clarity on roles and City Policies
  - Job Descriptions
  - Personnel Policies
- Know how to get information
  - Know how to get on the Agenda
  - Follow common communication practices with Staff
  - Make Staff aware of questions. Staff may want to use the standard report or executive summaries
  - Respect Staff time
- Know how to give information
  - Utilize Staff to provide information to other Elected Officials
  - Common practice in public responses
  - Back team decisions even if disagreeing
- Priorities: Establish, know, or adjust agreed upon priorities
  - Have annual planning meetings
  - Have Staff provide overview of their day to day at annual meeting

She asked what the practice was in the City.

Mayor Bartholomew responded he did not know if there was a common practice. In the past if there was a question of Staff and need to contact them, let the City Administrator know you are reaching out. He stated a few days prior to meetings he would review questions he has with Department Heads relating to the Agenda Item. It is easier to get through the meeting, helps clarify the position being made by Staff, and helps know what Staff is presenting. He stated he did not believe there to be a formal way in writing or procedure to contact Staff.

Ms. Whitmore responded it does not have to be formal in writing but encouraged the discussion, so everyone has the common practice. She stated another item the Mayor addressed was having discussions with Staff before meetings. Having those discussions prior will make the meeting better, benefit the public for a more robust discussion, and have Staff feel better prepared.

Mayor Bartholomew added if asking questions of Staff and receiving an answer, he requested Staff copy all Councilmembers with the answer.

Ms. Whitmore responded that was good practice. The Open Meeting Law allows Staff to send information to all Council.

Ms. Whitmore stated Elected Officials have communication with each other, Staff, and the public. The role is to listen to the public. Get into a common practice, even if you do not agree, state it was a group decision and the direction the City would be going with. This creates more of a team feel for the City and reduces the amount of potential division in the public.

Setting priorities helps Staff. Councils that follow this have better success in working with Staff.

Mindfulness of Roles:

- Budget: Work with Staff on the process of budgeting.
- Leadership Roles: Coming prepared, attending the meetings, asking ahead of time, focusing on policy, and trying to avoid disruptive conversations.

She stated long meetings can be difficult. She asked if the Council has iPads.

Councilmember Piekarski Krech responded they do.

Ms. Whitmore responded it is easy to get distracted. Keep in mind when having group discussions, if not looking at the person, you are not really listening. That could create division or hard feelings in a decision-making setting. Avoid side conversations and getting distracted.

Ms. Whitmore stated Council packets have an activity with a couple of scenarios:

Scenario 1: Councilmember gets Elected, loves the City they live in, cares about the Community, sometimes it is hard to stay at the policy level. For example, there are Public Works employees standing by their truck and the Councilmember feels they are taking too long of a break. Following employees around, Employees get upset, Councilmember gets defensive because they are trying to make sure money is not being spent irresponsibly with people not working when they should be.

She asked what the issues were.

Councilmember Piekarski Krech responded staying in your lane. Being on the Council takes on a role. Following them as a citizen, versus as a Councilmember, puts a different spin on what is taking place and how it is viewed. She commented she could see where employees would get very upset. It should go to the Supervisor or Department Head. Not the Councilmember taking on the role of being the employer.

Ms. Whitmore asked what the first thing the Employee would say to the Councilmember when stopping and telling them to get back to work.

Councilmember Piekarski Krech responded they would say "I am working".

Councilmember Dietrich responded they would say "You are not my boss".

Ms. Whitmore stated one person is not going to be able to give direction to any Employee.

Scenario 2: Ms. Whitmore stated they often use a fictional City name for some of their activities, called Mosquito Heights. The question: Mosquito Heights lost their Administrator and the Council voted to hire a Headhunter. A week after, the Acting Administrator received an email from someone in a neighboring City, the email states she would be offered the City Administrator position soon because the Mayor has been talking to her for months and is setting it up. She would like to get in and get some transition going because they know they are going to need to clean house.

Ms. Whitmore asked what the issues were with this scenario.

Councilmember Piekarski Krech responded not working as part of a team.

Ms. Whitmore stated this happens a lot with the person who runs the meeting, the main conduit. This can get confusing because a lot of times they just want to help. It needs to be a Council decision.

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Scenario 3: This scenario happened a few months ago with COVID and frustrations. She stated a Councilmember thought they could negotiate a better deal on a City vehicle they were going to purchase. They went directly to the vendor, negotiated, and then came back to the Council.

She asked what the issue is.

Councilmember Murphy responded it is the difference between leadership and management. Setting the vision and executing on that vision.

Ms. Whitmore stated she uses these simple scenarios to be the reminder of policy. This is a team decision maker; they need to stay at the policy level and work as a group and an entity. This does not mean you cannot delegate to Staff or to a Councilmember to look into something. Decisions need to be made as a majority. With this Scenario, the Elected Official signed the Contract. There was a time the vendor was going to hold the Councilmember individually responsible for the Contract amount. When not acting as a team, it could create additional liability.

Ms. Whitmore discussed Managing Meetings:

She asked the Council what defines a good meeting, what is something that would be a terrible meeting, or has happened to make a terrible meeting.

Mayor Bartholomew responded the narrative gets lost in the discussion. The input gets too long, scattered, and not focused. It takes on a life it should not and goes in a direction it was not intended. He stated input and discussion have to be kept to the point of the topic. When getting off track, it needs to be brought back.

Councilmember Gliva agreed. She stated as a new member, she was out in the audience watching meetings, and believes they have room to improve on the continuity and flow of meetings. Keep things concise and on task.

Ms. Whitmore stated to help with that, if organized and have a good Agenda, structure the meeting. Having the commitment to the duties as a participating member of the Board. This means listening to one another, staying on task, no side conversations, respecting other points of view, and having the meeting go through the Mayor can help.

Ms. Whitmore discussed General Duties during meetings:

- The Mayor runs the meeting.
- Rules of process should be in place, whether officially adopted or based on rules of process.

Mayor Bartholomew stated they try to follow Roberts Rule. The decorum with Councilmembers has been generally good. Waiting turns asking to speak. They have done a good job and suspects that would continue.

Ms. Whitmore stated there is a document included in the Council packets called "Making Meetings Work". For new Councilmembers there is a list of Motions. It is an easy reference to have out at meetings about how to make a Motion and is based on Roberts Rules. There is no requirement under the Open Meeting Law or Statutes that the Council has to have Rules of Process. It is best practice to have them, and makes meetings run a lot better. The important part for decision making is that there is a Motion, a second, and a vote with a majority vote that has passed. If the Rules of Process are not followed, that is not going to invalidate any decisions. She stated Rules of Process will make everyone feel heard and give the opportunity for dialog.

Ms. Whitmore stated the Mayor runs the meeting, but other Councilmembers feel like things are getting off track. There are ways, directing through the Mayor, to get things back on track. It is everyone's duty to stay on topic. If that does not work, you can ask for Points of Order or Points of Clarification to the Mayor to try to direct the conversation back.

She stated the Legislature stated at the last Session, especially with remote meetings, if any Elected Official joins remotely, there has to be roll call votes on everything.

With Motions, if there is a lack of clarity, repeating what the Motion is at the end. If Staff has questions, seeking clarifications about the directive will allow for things to work better in the long run.

Ms. Whitmore stated there are different points within Robert's Rules that can be brought up to help groups facilitate the discussion to be more on track:

- Point of Order: When there is a violation of the rule. More formal way to get things back on track if needed.
- Calling the Question: If the discussion is going on and on, do not use it as a weapon. Make sure everyone has their chance to be able to have discussion on a Motion.
- Point of Personal Privilege: Used when listening to public, cannot hear someone, more of a personal need.
- Point of Information: Having it go through the Mayor for more information about process or content of the Motion. If there are a lot of Amendments to the Motion, or unclear on what is being voted on, ask for Point of Information to clarify.

Ms. Whitmore stated Chapter 412 for Statutory Cities gives Council the authority to have discussion over their business meeting. You can suspend the rules if that is necessary to address things not complying with the formal structure of Roberts Rules.

If meetings get out of control, having a hot issue, or not complying with Public Comment Policy, Council can always take Strategic Breaks. Keep in mind if the meeting gets out of control and there is not good discussion going on, do not say the word "adjourned", that will end the meeting. Then you would have to have three days' notice for the meeting to happen again, then it would be a Special Meeting. The word adjourn technically ends the meeting.

Councilmember Piekarski Krech stated when she was Mayor there was a rather fractious Council. At one point she called meetings into recess 10 to 15 times in an evening.

Ms. Whitmore discussed Councilmember Participation:
- Keep meetings moving forward even when things get contentious.
- Let one person speak at a time.
- Let the Mayor recognize people before speaking.
- Confining the debate to a current issue.
- Putting things on the Agenda if there are new things wanted.

She asked if the Agenda contained an area for new business. Mayor Bartholomew responded there is a section at the end of the meeting for Council Comments and Discussion. Ms. Whitmore recommended comments be kept to issue or policy. Meetings will run better that way.

Ms. Whitmore discussed Communication Practices and Dialoguing:

There is a distinction between debate and dialog. In meetings for Councils, hearing from different people in the City and bringing in those perspectives, she prefers it get to a dialog. There is an overview of the book she included in the packet located on Pages 145 and 146. It shows:
1. Learning your story
2. Expressing your views and feelings
3. Problem solving together

She stated in addition to common practices or policies, how you communicate matters:
- Know your own communication style
- Know when you are getting defensive
- Understand other people in the conversation have different communication styles and different perspectives
- Know that everyone brings in their own life experiences, history with each other, biases, and generational experiences.

She asked those that took the test on communication style, what they ended up being.

Councilmember Murphy stated he has done a few over the years and they all seem pretty consistent. He was labeled a planner. She stated he would be very purposeful. Likes details and information. Councilmember Murphy agreed. She stated that is helpful to all on the Council to know.

She asked what would drive him crazy in a meeting. Councilmember Murphy responded he liked to stay on task and get things accomplished.

Councilmember Dietrich stated she has been consistent with the results of being a thinker. Ms. Whitmore responded that means logical and likes facts, sees a big picture.

She asked what drives Councilmember Dietrich crazy in a meeting. Councilmember Dietrich responded unpreparedness.

Councilmember Piekarski Krech stated she is a thinker and a connector. Ms. Whitmore asked if she liked to hear everyone's opinion. Councilmember Piekarski Krech responded generally, yes. She does not like to form an opinion until she gets other people's ideas.

Ms. Whitmore asked if there was anything that drove her crazy when having a conversation with someone. Councilmember Piekarski Krech responded stupidity.

Mayor Bartholomew stated this was the first time he has taken a test like this and came out as a Planner. He likes to look at the big picture and determine what the issues are and comes up with solutions and ways to approach a problem.

Ms. Whitmore asked what makes him crazy. Mayor Bartholomew responded the lack of opportunity when an individual is speaking. To close the gap to teach, to miss the teachable moment, to not be clear. He stated the individual speaking understands the issue very well and should take the opportunity to teach, show, and explain why their position is what it is. Sometimes the opportunity is lost in conversation. She asked why he thought that was. Councilmember Bartholomew responded it is a lack of conviction, deer in the headlights in front of Council. He believes they have to coach individuals and give them the opportunity to be strong in their convictions, but to explain why their position is their position. To also give follow-up, if this position was not to their liking, consider another, it may not be what they like but it is a consideration. Ms. Whitmore stated he likes someone having alternatives or options. Councilmember Bartholomew responded he does. He likes a strong set of conviction.

Councilmember Gliva responded she is a thinker. She likes to see data, facts, think things through before coming up with a solution. She likes spreadsheets. If problem solving, likes to see details.

Ms. Whitmore asked what drove her crazy during meetings with dialog. Councilmember Gliva responded when someone presents a problem or solution, and it sounds fantastic, execution may not be that easy. That is where she looks for more details.

Ms. Whitmore stated most Councilmembers are planners or thinkers. This is good for Staff to know. Agenda packets and information in them would matter. In meetings, they may consider having Work Sessions to spend more time on Agenda items in order to have the data needed. She asked what the Council thought about this.

Mayor Bartholomew responded with issues that need further discussion, they discuss them in Work Sessions prior to bringing it to Council to determine what direction Staff takes, and what important issues the Council sees. They have Work Sessions at the beginning of each month. He stated in the past they have been good at taking the time for a Work Session and to understand what the direction may be and where headed. This allows Staff time to bring their recommendation to the Council. He would like to see the Council continue with this.

Ms. Whitmore stated knowing their communication style and reminding themselves of what their communication styles are when having group discussion, would be the best technique to have good dialog. When getting frustrated it is helpful to remind themselves that others communicate differently. She stated everyone in the room brings in their own history and set of experiences. That may change how one thinks. Take the time to educate

others in the room about position and interest. She stated knowing that all have information that only they know about, it is their job to educate others. It is the colleague's job to listen and your job to listen back.

She stated one of her favorite parts of the readings was from the Uncle and the Nephew. In the reading the Uncle takes the Nephew to a high school homecoming parade. As they are walking away, the Uncle asks the Nephew what he thought of the parade. The Nephew responded it was the best truck parade he had ever been too. The Uncle was confused because he did not even notice the trucks because they all had different things they were looking for in the experience. She asked that Council keep that in mind during their meetings. Everyone is bringing in their own experiences and how they view things. Remind yourself of this and take time to see what those experiences or interests are.

Ms. Whitmore discussed Elements of a Conversation:
1. Knowing yourself. Most important. Everyone knows themselves best. Their own communication style and how they approach things would change how the dialog goes. Reminding yourself of your own communication style is very important.
2. Being authentic. Means you really want to hear the other person's perspective. Get all the data. Do not act like you want the data, be authentic. The person on the other side is going to know when you are not authentic.
3. Listen. Not talk. While you are not talking, you are not doing your grocery list in your head or thinking of other things.   Focus on the other person talking. This often means asking questions and verifying that you understand.
4. Assume nothing about the speaker and desire to learn more. Be curious.
5. Practice Empathy. Taking the time to listen and understand. Does not mean you have to agree with everyone.
6. Paraphrase
7. Speak back with clarity. Clarifying what the other is saying and if you are understanding creates better dialog.

Engage in Dialogue:
- Talking in your "I" voice is easier. If getting interrupted a lot, instead of saying "you always interrupt me" Say "I am really frustrated, I am trying to tell my perspective, I want to hear yours, but I need to finish mine first". This does not put people on the defensive. Taking the "you's" out will be helpful in dialog. She stated if the topic is going off topic a lot, or goes in a different direction, have one issue at a time.

Where to Start? Listening and Fairness:
- Being curious means wanting to listen. For example: What information do you have that I do not have, help me understand, remind me of what we talked about last time. These are more open ended and a better opportunity to get to underlying interests.
- It is ok to disagree. If disagreeing, saying you "want to make sure what you are saying first, and then asking questions" come back with what you are trying to say is your interest and how to move forward together once known.
- Do not focus on the past, focus on moving forward.
- Recognize when getting protective or defensive. People recognize people have things that are special or close to them. If saying "I get really protective of this", Say "my voice is probably sounding louder, I am not angry, I am just very passionate about this and it upsets me that I don't feel like you are listening to me". Being honest about how you are feeling can be a very good starting spot.

Good Question Asking: Why, What, How:
- Can you say a little more about how you see things?
- What information might you have that I do not?
- How do you see it differently?

- What impact have my actions had on you?
- Were you reacting to something I did?
- Say more about why this is important you?

Not Good Question Asking:
- Do not insert your own ideas in the form of a question.
- Do not ask closed questions.
- Do not ask a question that really is a statement.
- Do not ask leading questions.
- Do not ask cross examination questions.

Listening Skills: Listening is not forming your argument in your head to respond.
- Stop talking.
- Engage in one conversation at a time.
- Empathize with the person speaking.
- Ask questions.
- Do not interrupt.
- Show interest.
- Concentrate on what is being said.
- Do not jump to conclusions.
- Control your anger.
- React to ideas, not to the speaker.
- Listen for what is not said. Ask questions.
- Share the responsibility for communication.

Tell your Why: Finding the Intersection:
1. When…
2. I feel…
3. Because I…
4. (Pause for Discussion)
5. I would like…
6. Because that way…
7. What do you think?

When I always get interrupted:
- I get angry… and I do not feel like I am being heard.
- I really would like to be able to finish what I am saying.

After Reframing, then Synthesize:
- What is really important seems to be…
- Here is the connection, is that right?

Process Summary:
- Creating a safe space for dialog.
- Agree on problem or decision to be made.
- Asking questions and listening to be able to brainstorm.

Body Language:
- Facial Expressions. There are studies that state when someone is speaking:
  - Those listening understand the meaning of what is being said by the non-verbal language: 55%
  - Tone of voice: 37%
  - Actual words: 8%

3) **Data Practice, Data Privacy & Social Media:**

City Attorney Bridget McCauley Nason discussed the Open Meeting Law (OML):

- The Open Meeting Law applies to the City Council and all other similar bodies. All meetings must be open to the Public.
- Different types of groups are subject to the Open Meeting Law:
  - City Council Meetings
  - Council Work Sessions
  - EDA Board Meetings
  - Planning Commission
  - Environmental Commission
  - Other standing City Committees/Commissions
- A meeting is not defined in State Statutes. Defined in Case Law:
  - A quorum of the Body
  - Discusses, decides, or receives information as a group, and
  - Information is related to official business
- "Inside the Room" Meetings:
  - Open Meeting Law requires certain notification requirements based on the type of meeting (regular, special, emergency).
  - Additional requirements apply to remote/hybrid meetings
    - Roll call votes
    - Ability of public to monitor meetings
- "Outside the Room" Meetings: Challenging. Be aware of your situation and your surroundings. If it constitutes a meeting, it needs to be noticed, opened to the Public, and other requirements apply.
  - Social Gatherings
    - No violation if no quorum; or
    - No City business is discussed. There may be situations where there is a quorum present. The legal side, do not have conversations regarding City business. The perception side, there could be questions about what is being discussed.
  - Trainings
    - General Information; acceptable. Can attend events. Any League programs receiving general information on City business and matters. This is not a violation of the Open Meeting Law.
    - City-specific discussion; problematic. If Council meets and discusses City business, it will have to be treated like a meeting.
  - Email
    - Too many members involved could result in a quorum
    - Message is received by the group
    - Message contains information related to Official business

Meetings: IPAD Opinion 09-020

City Attorney McCauley Nason stated in 2009 there was a situation involving the Joint Powers Board called the Metro Gang Strike Force made up of Law Enforcement Agencies from around the Metro area. There was a situation where Board received news there was going to be a story that would not speak highly of the Board. An email was sent out saying they should get ahead of this, and how to respond. Seven of the Board Members (constituting more than a quorum) interacted by email on a subject by hitting "Reply All". She stated the question presented to the Department of Administration was whether or not there was an Open Meeting Law violation when there is an exchange of email messages related to the activities of the Joint Powers entity. The Department of Administration determined there was because there was a quorum of the Board. She stated the matter was discussed and received by the group; all were sent the email. The matter was characterized as "a matter of high importance" in the emails (Official business).

A few of the lessons learned from this:

- Important to receive information from the City in a "one way" fashion. Example: Weekly update sent out from the City Administrator. City Staff can send all email communication. It becomes problematic when someone hits "reply all" and has a substantive discussion regarding the contents of the email. The recommendation is to reply back to the Staff Member only with one other Council Member.
- You can have two members of the Council, just do not forward, or copy the email to other Councils. There is something called a "Serial Meeting" where people try to skirt the meeting law by limiting their communications to one person. If engaging in a meeting, but do it in a serial fashion, it could violate the Open Meeting Law.
- There is an unpublished Court of Appeals decision from 2012 that found email communications (two email messages) were deemed to not be subject to the Open Meeting Law as the Court Opinion stated the Open Meeting Law only applies to Oral Communications. This was an unpublished decision, not presidential, and was narrowly focused on the particular content of the emails. Best practice recommendation is to avoid any serial email communications.

Open/Closed Meetings:
- Some meetings must be closed
- Some meetings may be closed

She stated the general default rule is everything is done in Open Session. Closed Sessions are based on the topic of discussion. Under the Open Meeting Law, the Council may close the meeting to discuss.
- In certain situations, meetings must be closed:
  - Council has to close the meeting whether or not they want to. In other situations, it is a discretionary action of the Council. This includes the discussion of certain non-public data:
    - Victims of crimes
    - Criminal investigations data or Internal Affairs data
    - Internal Affairs data regarding Law Enforcement
    - Health, educational, and medical data
  - Preliminary consideration of allegations or charges against an individual subject to the Council's authority.
- Council may choose when to close a meeting to discuss:
  - Labor Negotiations
  - Certain Performance Evaluations
  - Attorney-Client Privilege
    - Active or threatened litigation when the need for absolute confidentiality outweighs the public's right to know. Only arises in the context of active or threatened litigation. Discussion needs to take place about potential litigation, litigation strategy, costs, risks, the City's best position. The Council may close the meeting.
    - In these situations where meetings are closed except for situations of a closure due to Attorney/Client privilege. All these meetings are required to be recorded and retained for a certain length of time. This ensures whether or not the scope of the discussion strayed from the purpose of the closed meeting, or the allowed and stated reason for being closed. The tape is available in a litigation context.
- Council may close a meeting to discuss:
  - Purchase or sale of real or personal property
    - Determine asking price
    - Review non-public appraisal data
    - Consider counteroffers
  - Security Briefings
- Penalties:
  - $300.00 for each occurrence and Attorney's fees (up to $13,000). $300.00 fine cannot be paid by the City. Attorney's fees and other damages could be paid by the City.
  - Removal from office for three or more violations.

- o   Public backlash if deemed Council has violated the Open Meeting Law.
- Takeaway:
  - o   Open Meeting Law applies to all "meetings" of a quorum of the Council
  - o   Discussions, receiving information, or making decisions about City business as a quorum equals a meeting.

Social Meeting Use by Elected Officials:
- Social Media: The new frontier of communication by Elected Officials
  - o   Facebook
    - ▪   Personal page
    - ▪   Public Official page
    - ▪   Neighborhood page (public/private)
    - ▪   City Facebook page/Twitter account
  - o   Twitter
  - o   LinkedIn
  - o   Snapchat
  - o   Instagram
- You are violating the Open Meeting Law if:
  - o   You are friends on Facebook with a quorum of City Council Members, or
  - o   You are followed on Twitter by a quorum of City Council Members or
  - o   You are "Linked In" with a quorum of City Council Members and
  - o   You discuss, post, or opine about any official business that comes before you as the City Council.

Unless you are able to take advantage of the following exception:
- Open Meeting Law Exception 2014; Minn. Stat. 13D.065:
  - o   The use of Social Media by members of a public body does not violate this chapter so long as Social Media use is limited to exchanges with all members of the general public. Email is not considered a type of Social Media.
- That is not the only concern when elected Officials use Social Media. The Case Law and how Social Media usage by Elected Officials as interpreted by the Courts is still evolving.

Pam Whitmore, League of Minnesota Cities Insurance Trust shared a Power Point based on information from Webinars. She asked how many Councilmembers have Social Media they are using.
Councilmember Piekarski Krech responded she uses a personal Facebook page.
Councilmember Gliva responded she has a Candidate Facebook page and a regular Facebook page.
Mayor Bartholomew responded he has a personal Facebook page. He will be unpublishing his Candidate page.
Councilmember Dietrich responded she primarily has two Facebook pages.
Councilmember Murphy responded he has two Facebook pages.

Ms. Whitmore discussed Uses of Social Media stating:
- A great tool to push information out to the public.
- Encourages resident interaction.
- Public Safety Agencies solving crimes.
- Show off your services, programs, and the beautiful parts of your Community.

Social Media is Powerful:
- Powerful and not just local.
- 51% of U.S. adults have increased their Social Media use since the Pandemic.
- A single post can spark a Worldwide movement.

Quiz:
- How much time does the average user spend on Facebook per day?

Answer: It changes by age groups. 58 minutes on average per day.
- What is average time per day the average American spends on Social Media in general?
  Answer: A little over 2 hours.
- What percentage of Americans have some type of Social Media account right now?
  Answer: 70%

As of November 2020, Social Networking sites are estimated to have 3.6 Billion users. That is a lot of people you can reach with posts. Facebook flips from #1 to #3 in the World.

Impact of Social Media:
- Intent:
  - Inform followers (residents)
  - Generate honest questions and dialogue
  - Raise visibility/image of the City
  - Represent yourself as a leader supportive of your Community
- Result:
  - Public perceives elected Officials as speaking for some, most, or all other Electeds.

Issue: Blurred Line: Is it your personal page. Do you have an Elected Official page? Would the Court see it as both?

Ms. Whitmore stated hearing several Candidate have pages, they may want to switch those over to being a Government page. Now that they are an Elected Official and using the page to post things about the City, there are Election Laws they should be aware of. She stated the recommendation is to have a personal page and then a page as an Elected Official. If you do not do that the Court is going to analyze how the page is used. If help is needed to create a page, reach out to her.

Best Practices when Posting:
- Format posts to best fit each platform's individual standards
- Keep it short
- Use hashtags (will link to topics)
- Keep promoting the existence of your account (the more views the more presence)
- Use images, infographics, and videos (people like pictures)
- Utilize a service that links multiple accounts on one dashboard (saves time)

Possible Legal Issues:
- First Amendment concerns, even if as Elected Official.
- Copyright
- Open Meeting Law
- Bad Behavior
- Campaign Concerns
- Data Retention

First Amendment concerns were discussed:
  - Started with our President blocking people. Courts said he was unable to block people because the Court sees the Social Media page as a public forum.
  - Council Meetings are called a Designated Public Forum, people can come in. If allowing Public Comment, you cannot control the content of what they say. The Courts say the Social Media accounts as Elected Officials are really those Designated Public Forums, you cannot stop people from commenting on it. Cannot control the content of what they are saying because you are an Elected Official putting it out there.
  - Blocking is frowned upon as well as deleting comments. There have been cases where comments are made and upsetting. If deleting them from your page, the Court has said that it is not okay, it is controlling content. If you are putting yourself out there, open forum, they have the right to have their comments heard on your page. This is where having a private and a Governmental page is very important. Do not use your public page during times that have City business involved.

- It is suggested to put tips on your page. There is no First Amendment right for sexual content, pornographic content, direct threats, trademark or copyright, personal information without consent, and commercial posts (hyperlinks or spam). This falls under the discretion of the Court as to whether it fits into one of those categories. If putting language on your page related to "this is my Elected Official page, the purpose of this page is to give information on what is going on in the City, content will be deleted that meets a certain criterion". This is a good way to try to limit what the Court would see as a forum for that language.

  There was a case with a County Commissioner. A resident kept commenting negatively on things taking place with the School Board. The Commissioner deleted the comments for 12 hours. The resident sued the Commissioner for First Amendment Violation and was successful in the lawsuit.

Councilmember Piekarski Krech questioned if there is any City business being discussed, the First Amendment covers it and would have to have an Elected Official page versus a personal page in order to have any control. Ms. Whitmore responded if putting City information on a personal page, it is fine, but if something nasty is put on and you delete the comment or block them, you will not be able to do that.

Councilmember Piekarski Krech commented if putting that on your personal page if that does not have to be public. Ms. Whitmore responded if using your personal page as an Elected Official, then a Court would see that as supposed to be public.

Commissioner Gliva asked if having a personal page and not discussing City business, what would happen if someone started discussing City business and it becomes negative. She asked if the person needs to state publicly this is not the spot to discuss this. Ms. Whitmore responded she would tell the person in the comments, "this is my personal page, if you want to have this discussion, I have a professional page, please go to that". The comment can be left on there but have a reason if the Court analyzes it.

City Attorney McCauley Nason stated if having dual pages, the person controls their personal page, it should be applied evenly. If your personal page is hands off you cannot discuss personal stuff, you can control it like you would. There is the need to make sure you are not using a content-based approach. It does not have to be made public. When she was discussing the Open Meeting Law exception, there is an exemption for Social Media. That will come into play if you have different Facebook pages and how you use them differently. She stated if you start a Facebook page and talk about official City business, or are introducing yourself as a Councilmember, that is the case Ms. Whitmore spoke of with the lawsuit. One has to be careful how to approach the situation.

Councilmember Piekarski Krech stated there is a neighborhood page in Inver Grove Heights. She did not join it, but there were already three Councilmembers on the page as members. She asked where this falls in this discussion. City Attorney McCauley Nason responded there is an exemption under Social Media for usage of Social Media, but it requires the page to be public or your Facebook page to be public.
Ms. Whitmore stated there is no problem with being a member. It is the conversation. If posting on the same post as other Elected Officials, that is creating a quorum, and is a meeting. If discussing official City business that would be a violation of the Open Meeting Law.

City Attorney McCauley Nason stated there is not any caselaw or Department of Administration Opinions in Minnesota that provides the clarity of guidance. All that can be done is to give the best and most conservative advice based on the Statutes that exist and the interpretations in similar arenas.

Ms. Whitmore stated she had a discussion with the Data Practices Office that gives opinions on Data Practices and Open Meeting Law. It is an Advisory group. There is an exception in State Law on being able to use Social Media

as long as it is available to the public on your Elected page. She stated the Data Practices office has said if there is a discussion going on, on a single post, with a quorum, the Open Meeting Law could kick in and could be seen as a meeting. Best practice is to have two pages. One for personal, one for City. Be consistent on your personal. If a page is listed as a Candidate page, switch it over to an Elected Official Page. Do not block anyone on the Elected Official page. If having control over content, make sure it meets one of the non-protected categories for First Amendment speech. The biggest one is a direct threat, that could be taken off.

Ms. Whitmore discussed How to Respond to Posts:
- Be clear and factual
- Address the problem and the City's response to it
- Do not engage in a back-and-forth debate
- Refer to external data sources in your comments
- Avoid knee jerk posting

When a comment is positive:
- Thank them and be personable
- Link to other positive and relevant stories

Copyright:
- Images, text, video, audio, used on Social Media sites must comply with U.S. Copyright Law.
- Copyright protects original words of authorship, including literary, dramatic, musical, and artistic works. Even resharing something can be a copyright issue.
- Insurance coverage from the Trust would not cover any of these copyright infringement actions.

Social Media and Open Meetings:
- Open Meeting Law: A quorum or more of decision makers receiving or discussing official City business must be held in the open and the public must be notified ahead of time.

Bad Behavior:
- Legal issues:
  - Defamation/Libel
- Court of public opinion:
  - Deliberate posting (or liking or other non-written emoji or picture) of off-color, inappropriate comments.
  - Online sparring. Back-and-forth dialogue escalates situations and people stop listening and learning.
  - Using personal account to launch personal or political attacks against colleagues.
  - Creating inadvertent public perception of government interest.
  - Demeaning others.

Ms. Whitmore stated sometimes bad behavior can lead to censure or resignation of Elected Officials. She stated for example, there was a Mayor who thought he was sharing with a family member a picture of a car driving into 35W on his personal page but shared it on his Elected Official page. Public outcry was so bad he ended up resigning.

Another example was a Mayor who was censured because there was a comment by one of his Facebook connections about her feelings about the Black Lives Matter movement. He reshared it and did not comment. His residents got so upset the Council censured him.

Keep in mind public outcry and opinion can cause a divide in the Community and can take away from the Councils ability to do business.

Key Messages:
- Watch your humor. Not everyone thinks the same things are funny.

City Attorney McCauley Nason discussed the Data Practices Act. She stated she included a picture of the Table of Contents for Chapter 13, Data Practices Act. It is a very long and lengthy Chapter of the Minnesota Statutes. The Minnesota Government Data Practices Act:

- Minn. Stat. Chapter 13
- 180 pages long
- Applies to all Government entities
- Regulates the collection, creation, storage, maintenance, dissemination, and access to Government data in Government entities.
- Establishes a presumption that Government data is public and accessible to the public unless an exemption applies to the data.

What is Government Data?
- All data collected, created, received, maintained, or disseminated by any Government entity regardless of its physical form, storage media, or conditions of use. This includes:
    - Documents
    - Audio tapes
    - Video tapes
    - Computer storage media (CD's, external drives)
    - Emails
    - Computer hard drives
    - Text messages
    - Twitter accounts
    - Instant Messages
    - Cell Phone records

Data falls into two different categories:
1. Data on individuals
2. Data not on individuals

There are three different classifications of the data:
1. Public. Accessible to any member of the public for any reason. All employee names and salaries.
2. Private or not public data. Data available to the data subject. Those in the entity whose work assignments require access, reasonably. Entities authorized by law and those authorized by the data subject. For example: An employee's home address or telephone number.
3. Confidential or protected non-public data. Confidential data is data on individuals. Protected nonpublic data is the confidential data designation for data not on individuals. Only available to those in the entity whose work assignment require access. Entities authorized by law is not available to the data subject themselves. Example: Data collected as part of active Civil/Legal action.

Data Practices Act:
- Never write an email, post, or text you would be embarrassed to see on a billboard in the newspaper, on TV, or on Social Media.
- If data is within your control or possession, and is related to official business, it is subject to the Data Practices Act.
- All Cities are required to have a Responsible Authority and a Compliance Officer to administer the Act.
- When asked for data, refer all people to the Responsible Authority (City Clerk). Do not provide the data yourself.

A few of the many relevant provisions of the Minnesota Government Data Practices Act:
- Council Communications: Correspondence between individuals and Elected Officials is private data on individuals but may be made public by either the sender or the recipient.
  If someone sends an email to a Councilmember, the sender can make public the communication, or the Councilmember has that right.
  For example: A Minneapolis Councilmember publicized a bunch of Council communications she received, people were upset, they thought they were communicating with her in confidence. It was the Councilmembers choice/decision to share it.

- Applicant Data: Names of Applicants only become public when they are deemed a finalist, meaning they are selected for an interview by the Council.
  For example: If discussing which Candidates to interview, that is not public.
- Personnel Data: Presumption is reversed. Most personnel data is not public data and only available to those who need to have access (Individuals whose work assignments reasonably require access).
- Law Enforcement Data: Very factually dependent based on the information contained in the Police reports. Refer all requests to the Police Department.
- Real Property Complainant: Identity of persons who register complaints with the City concerning violations of State Laws or local Ordinances concerning the use of real property is confidential.
- Security Data: Not public.
- Permit/Licensing Data: Except for certain data (Social Security Numbers).
- Sealed Bids/RFP Responses: Not public initially. Not public until bids are opened.
- Recreational Data: Certain data collected by the City for the purpose of enrolling individuals in recreational or social programs is private data.
- Personal Contact and Online Account Information: City maintains an electronic notification service/distribution service.
  Example: When there is an Ordinance the Council is considering. The Ordinance is sent out to anyone who signed up for Listserv. Certain information people use to sign up for this service is not public data.

Data Practices Act:
- Questions arise about how Council can have tough conversations that involve not public data.
  - Answer: The Data Practices and Open Meeting Law provides the Council may discuss not public data at a public meeting. May either need or be permitted to be closed. She stated the Council can discuss non-public data at the public meeting. When the meeting is over the conversation ceases.
- Penalties for violations:
  - Civil legal consequences and remedies as well as potential criminal charges.
    - Damages, costs, Attorney fees, and in the case of willful violations, exemplary damages.

Data Practices Act: Recap:
- Applies to City data
- Governs access to data
- Contains many provisions that apply to various forms of data the Council will encounter while conducting the business of the City.

Councilmember Piekarski Krech asked about discussing private data in a public meeting. If discussing it, the data is out there, it is no longer private. It cannot be said you did not hear that. City Attorney McCauley Nason responded there is another Statute stating that a record of a public meeting is public at all times. Any record of a public meeting is public data if maintained by the City. Audio recording, video recording, and the minutes. She stated she had a discussion about this issue with the Data Practices Office regarding this because it seems contradictory to say there is a classification. To provide a record of the meeting which contains the discussion of the data is public. The answer is any record maintained by the City of a public meeting is public, not withstanding the fact that there was private or not public data discussed at the meeting.

City Attorney McCauley Nason stated because the City can do something, does not mean it has to, or should. Depending on the situation, you can choose to refer the information with different terms to mask it. For example, when the Council discusses the new City Administrator, when reviewing the data, Applicants would be assigned numbers. The same applies to property that is a problem.

City Administrator Lynch stated this was a lot of information. This was designed to introduce a few topics about meeting management, communication styles, and trying to work together. It shows some of the challenges out there with communication. Information was sent to the newly Elected Officials and Mayor. He stated the League

has an excellent program for newly Elected or experienced Councilmembers. There is a Mayor portion as well. You can register, pay, and get reimbursed. The City can also register for you and pay through the City. He recommends taking advantage of the training.

Councilmember Piekarski Krech asked the City Clerk if she had copies of the PowerPoints. City Clerk Kiernan responded she does and will forward those on to the Council.

Mayor Bartholomew stated the issue between personal Facebook, Candidate Facebook, and Public Figure Facebook was confusing. He may ask additional questions and would like the entire Council to receive the responses. City Attorney McCauley Nason responded it is confusing and complicated. Questions can be sent to her or through the City Administrator. Responses would be shared with the entire Council.

Mayor Bartholomew stated the next scheduled meeting is on Monday, January 11th, at 7:00 p.m.

B. Adjourn:
Motion by Dietrich second by Gliva to adjourn the meeting at 8:36 p.m.

Ayes: 5
Nays: 0   Motion carried.

Minutes prepared by Recording Clerk Sheri Yourczek.