



MEMORANDUM

DATE: August 3, 2020

To: Honorable Mayor & City Council

CC: Dave Bennett, Director of Public Works/City Engineer; Monte Nelson, Police Chief; Mitzi Baker, Community Development Director; Deb Little, City Clerk; Michelle Mahowald, Communications & Human Resources Director; Teresa Jensen, Director of Library and Information Technology Resources; Chris Hood, City Attorney

From: Ben Martig, City Administrator

RE: "Supplemental Agenda Background Memo" for August 4, 2020 No. 1.

Summary Report:

The following is an update on agenda items as supplemental background agenda information made available for Tuesday, August 4, 2020.

Approval of Agenda

Councilor DeLong requested removal of the following agenda item from the consent agenda:

Item No. 10. Consideration of Budget Amendment Resolution for Additional Legal Services.

City Administrator Martig and Mayor Pownell recommend moving this to immediately follow item number 15 on the Regular Agenda. Also Please see attached comment submitted on this item.

Item No. 12 Introduction and consideration of a public improvement project, with assessments, for Bluff View phase I residential development

Presentation for this item is attached to the supplemental memo.

Item No. 13 Consider Resolution for Spring Creek Townhomes 2nd Addition Preliminary Plat.

Presentation for this item is attached to the supplemental memo.

Item No. 17 City Administrator's Update

Please see attached memo related to recent legislative activity.

From: [David Ludescher](#)
To: [Glenn Castore](#); [Teri Knight](#); [Northfield News](#); [Deb Little](#)
Cc: [Ben Martig](#); [Rhonda Pownell](#); [Lance Heisler](#); [Mar Valdecantos](#)
Subject: City is still fighting Bridgewater
Date: Monday, August 03, 2020 8:42:49 AM

CAUTION: This email originated from outside of the organization.

Deb,

Please include this in the Council packet for tomorrow.

Thanks,
David

All,

Please excuse the length of this email. I did not have time to make it shorter.

I noticed something that causes me some alarm. Hidden in the Council's agenda is a resolution to recommit \$100,000.00 from two enterprise funds to the operating budget. If you will recall, in 2019, the City Council authorized the transfer of \$100,000 from these same funds for legal fees in an effort to deny Bridgewater residents the ability to form themselves into a separate city.

There are many reasons why the media should pay special attention to this item:

1. First, and most importantly, is the human rights issues involved.

In this day and age when we are finally coming to a full awareness of the systemic and institutionalized nature of much of the discrimination of minority populations, we have a system of laws in Minnesota that has institutionalized the idea that towns, such as Northfield, have the right to decide whether other people, our neighbors, have the same right of self-determination.

There is a strange irony that, in a supposedly progressive town, that our City Council continues to support the idea that Northfield has a manifest destiny over Bridgewater (and Waterford, and all townships). The City Council is the people's representative. Thus, as a people we are allowing our representatives to act as the suppressors of the rights of Bridgewater residents to try to self-govern. And, the Council's only defense is that the law allow this discrimination.

2. It is hidden away in the consent agenda.

This is an item worthy of the sunshine of the regular agenda. The consent agenda is intended for items that are administrative. Many items are completed by staff but require Council approval. Thus, they end up on the consent agenda. They are intended to be non-controversial, and items that should be able to have the consent of all Council members. Hiding it in the consent agenda shows an intent to keep it secretive.

3. It is being done in bad faith.

An agreement was already reached with Bridgewater. I believe it was for 3 years. I think it could be argued convincingly that there is no present dispute.

4. It has the appearance of being bullying.

Northfield is clearly the larger and stronger of the two government entities. Bridgewater can't amass the same kind of resources to fight that the City Council can. And, with the law presently allowing the

discrimination, Bridgewater has a large uphill battle for equality.

5. It is the taxpayers' money, not the Council's.

I don't want my money to go to support oppression and discrimination. Period. Not now, not ever.

6. The money is coming from enterprise funds.

Enterprise funds are restricted access funds. They are not fluid dollars. The dollars are only supposed to come out of enterprise funds for that enterprise. That is, water dollars are for water expenses; sewer for sewer; etc. Each fund is a separate accounting entity. They are restricted to prevent this kind of "creative financing".

7. If the money does come out, it has to be transferred from one operational account to another operational account.

Enterprise accounts are both capital and limited operational accounts. Money cannot be "borrowed" for operations. It is prohibited by the Charter, except in cases of emergency. It is a sneaky way to raise revenue without directly raising taxes.

8. The "City Attorney" has a HUGE conflict of interest.

The City Attorney is benefiting financially by recommending that taxpayer money be used to fight Bridgewater. He did the same thing with Waterford. He recommends litigation, and then personally profits from picking a fight with our neighbors.

9. The "City Attorney" is engaging in closed meetings with the Council without meeting the open meeting requirements.

This is perhaps the most insidious of all the problems raised. I have been made aware that the law firm is sending secret memoranda to Council members in an attempt to get "his resolution" passed. He used to do the same thing when I was on the Council. He claims that the memoranda are attorney-client privileged because they are prepared for litigation. When I was on the Council, he threatened action against me if I ever disclosed the memoranda.

In fact, the attorney-client privilege is the CLIENT'S, not the attorney's. Thus, any council member is free to disclose anything that comes from the attorney. That is why I had to fire Mr. Hood as "my attorney" when I was on the Council. By firing him, he could no longer claim that he had a relationship with me.

I realize that you, in the media, are in a difficult position. You don't want to lose readership or listeners by entering into a politically charged issue. And, I understand that the City has used your forums to advertise such as the recent retirement of Monte Nelson, or for the passage of the ice arena.

That is one reason that I am alerting Lance Heisler as chair of the Charter Commission, and Mar Valecantos, from the Human Rights Commission of these violations of human rights and the charter. I am also informing Glen Castore as a Bridgewater supervisor, as I doubt that he was made aware of the intent of the City Attorney and the Council.

The media has been called the Fourth Estate of government for a good reason. It is essentially the fourth branch of government that keeps the other 3 branches from becoming insular and self-serving.

I, for one, would like to see my friends, our neighbors enjoy the kind of government they think would be best for themselves. I would like to see equality. I do not understand why that should be considered a radical concept. I would think that equality would be supported by every progressive and conservative. It costs Northfield citizens nothing, and it gains us the trust of our neighbors. It is their Constitutional right. It is our duty.

Thank you for your attention.
David Ludescher
Concerned citizen

David L. Ludescher
Grundhoefer & Ludescher P.A.
515 S. Water St. Northfield, MN 55057
507-645-4451 (Phone), 507-645-7233 (Fax)
dludescher@northfieldlaw.com, www.northfieldlaw.com

BLUFF VIEW – PHASE I

Request for Public Improvement Project

8/4/2020 City Council

Northfield, MN

BACKGROUND - OVERVIEW

- This area has also been known as “Southbridge”, and was originally proposed for development by ARCON Corporation.
- Only one phase was constructed prior to the housing crash of 2007-2008
- Joan and Vern Koester have been exploring opportunities to develop the property
- A preliminary plat for the property was approved by the City Council in August 2018. The project was not ready to move forward in 2019, and the Council approved a 3-year extension of the preliminary plat at that time; until August 2022.
- At this time Johnson-Reiland Builders and Remodelers is working with the existing property owners and the City to pursue developing Phase I.

MOVING FORWARD

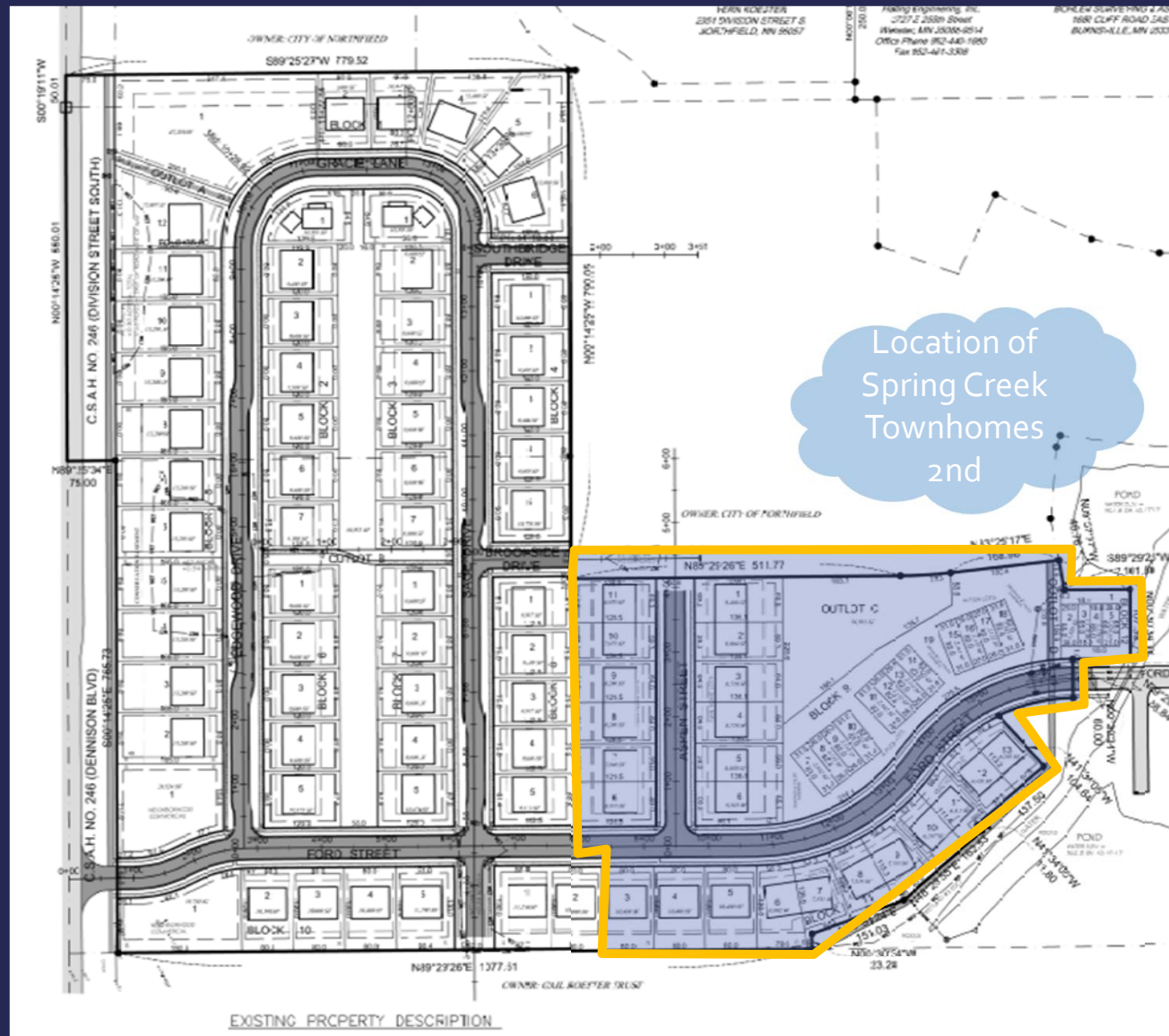
- Phase I approved Plat includes:
 - Four 4-unit townhomes
 - Ten twin homes
 - 3 single family detached homes

- Current Phase I proposal is for:
 - Three 4-Unit Townhomes
 - Seventeen Twin homes
 - Zero Single Family
- Slight modifications to lots due to:
 - Grade limitations
 - Market conditions

All units are on their own lot – essentially single family attached homes

PHASE I

APPROX. 1/2 OF REMAINING FORD STREET WOULD BE COMPLETED

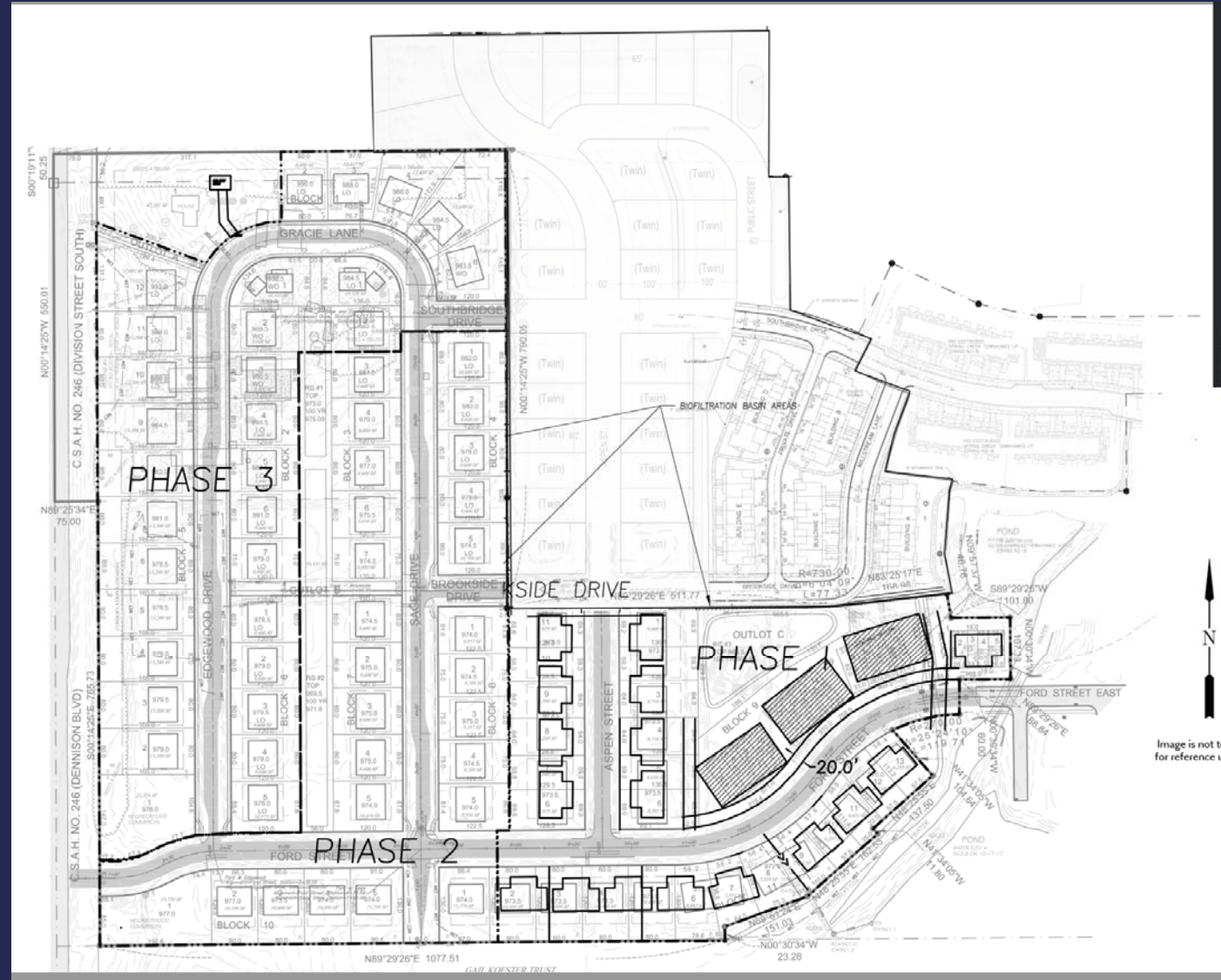


PHASE I

WILL MODIFY LOTS
SLIGHTLY FROM
PRELIM. PLAT:

- REPLACE ONE 4-UNIT WITH A TWIN DUE TO GRADES
- REPLACE 3 SF WITH TWINS

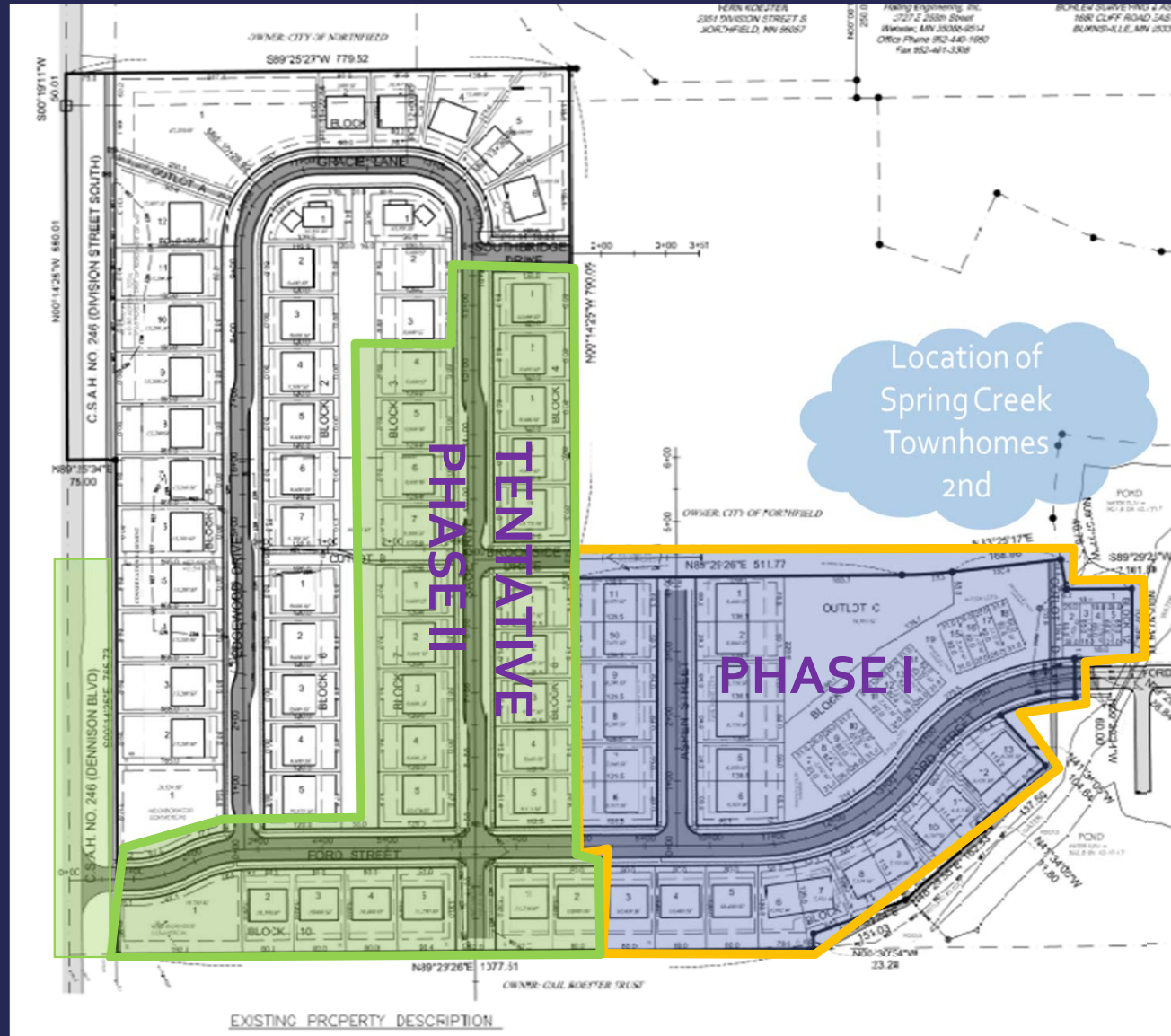
NOTE: THIS PLAN SHOWS
ADJACENT PROPOSED SPRING
CREEK TOWNHOMES 2ND



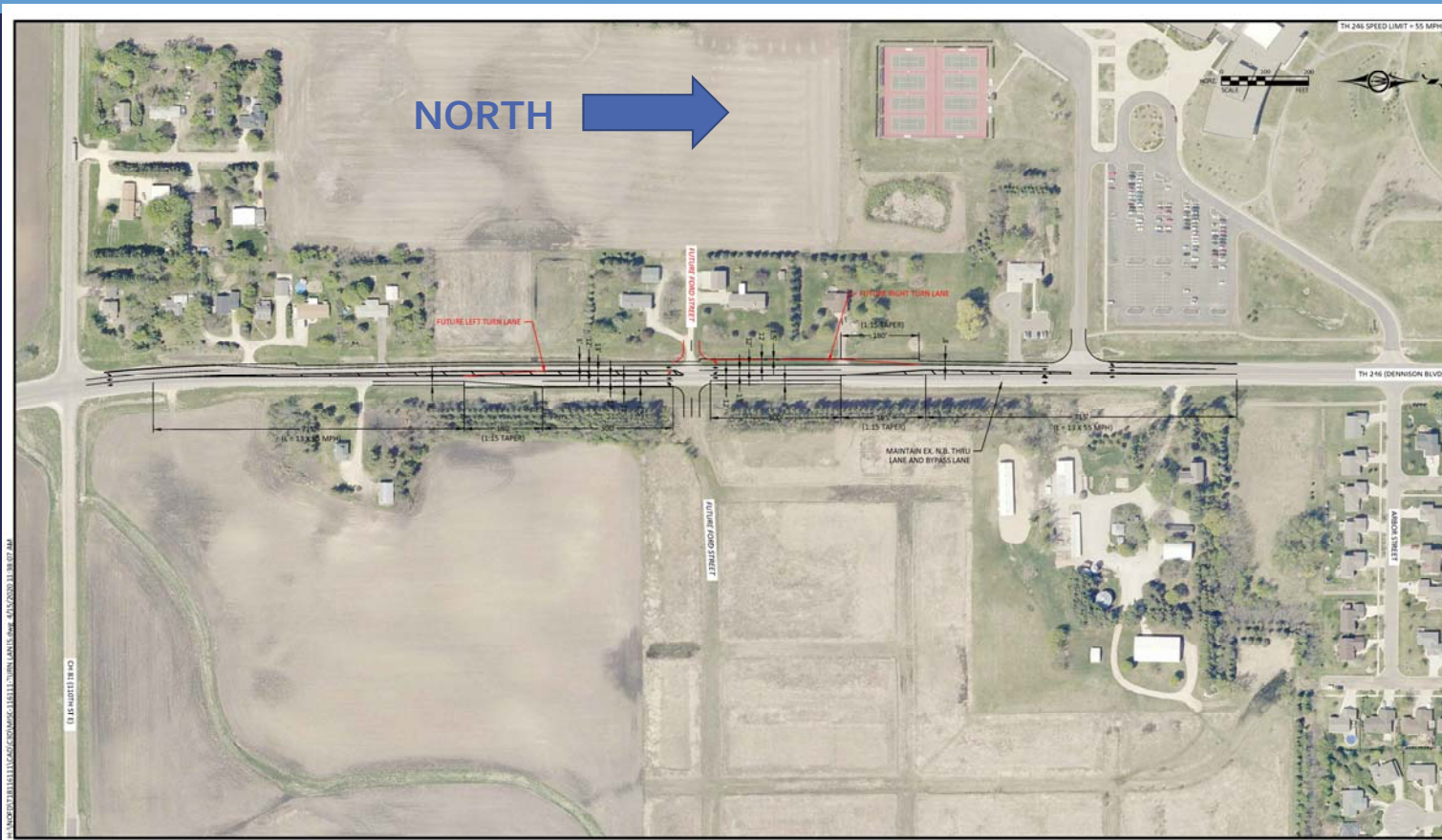
COMPLETING FORD STREET

EXPECT FORD STREET & 246 IMPROVEMENTS WOULD BE COMPLETED WITH PHASE II

PHASE II AREA OF LOT S.T.B.D. – WILL BE INFLUENCED BY MARKET DEMAND



TRUNK HWY 246 TURN LANES



PUBLIC PROJECT

- Process – Similar to other Public Project Process but not exactly the same
- Agreements with Developer
- City hire engineer to prepare plans and specs for Phase 1
- Council Approves Plans & Specs for Bidding
- Council Award Project
- Project constructed 2021
- Final Paving 2022
- Project Cost Assessed over proposed lots in Phase 1 of Bluffview

PROJECT FINANCING

- Project financing can be combined with other City 2021 project needs
- Assessment Revenues pay debt service, but timing market and development dependent
- State's bonding statutes provide flexibility:
 - 1) City can structure as a normal 5 or 10-year Improvement Bond
 - Similar to city's practice with other reconstruction or mill and overlay projects
 - Repayment spread out in level amounts, accruing interest over the length of term
 - Levy as backstop if assessments delayed or fall short
 - 2) City can issue "Temporary Bonds" payable in full within three years
 - Assessment balance pays off the financing as properties develop
 - Can structure for zero levy impact during the temporary period, limit interest exposure
 - Need to refinance any remaining balance at the three-year mark
 - Convert to a permanent structure or another three-year temporary period

DEVELOPER APPROACH

- ❑ Housing Market & Product
 - One-level living
 - Market Rate

- ❑ Projected Years to Complete Phase I

- ❑ Why Interested in Public Improvements with Assessment

- ❑ Potential for Longer Term Role in Completing Bluff View



Example: 2-Unit Style



Example:
4- Unit
Style

NEXT STEPS & TENTATIVE SCHEDULE

Council motion to support proceeding with documents and process for public improvements for Phase I, Bluff View.

- Staff prepare Agreements and other formal documents
- Developer to execute Agreements with the City and file a Final Plat Application
- Council Approve Final Plat and Agreements
- Record Final Plat – fall 2020
- Begin on first twin home at current end of Ford St. – late fall
- Finalize Construction Drawings – late fall/early winter
- Bid Project – end 2020 or early 2021
- Begin infrastructure construction – Spring 2021



Community Development
Department

Preliminary Plat Request for Spring Creek Townhomes 2nd Addition

CITY COUNCIL

AUGUST 4, 2020

MIKAYLA SCHMIDT, CITY PLANNER

Overview & Location

- Developed by Three Rivers Community Action with land donated by the Northfield HRA
- Spring Creek Townhomes proposes a 32-unit townhomes complex
- Located southeastern part of the city. West of Cotton Ln. and East of Hwy 246.



Review of Timeline

The Development Review Committee met several times since April of 2020.

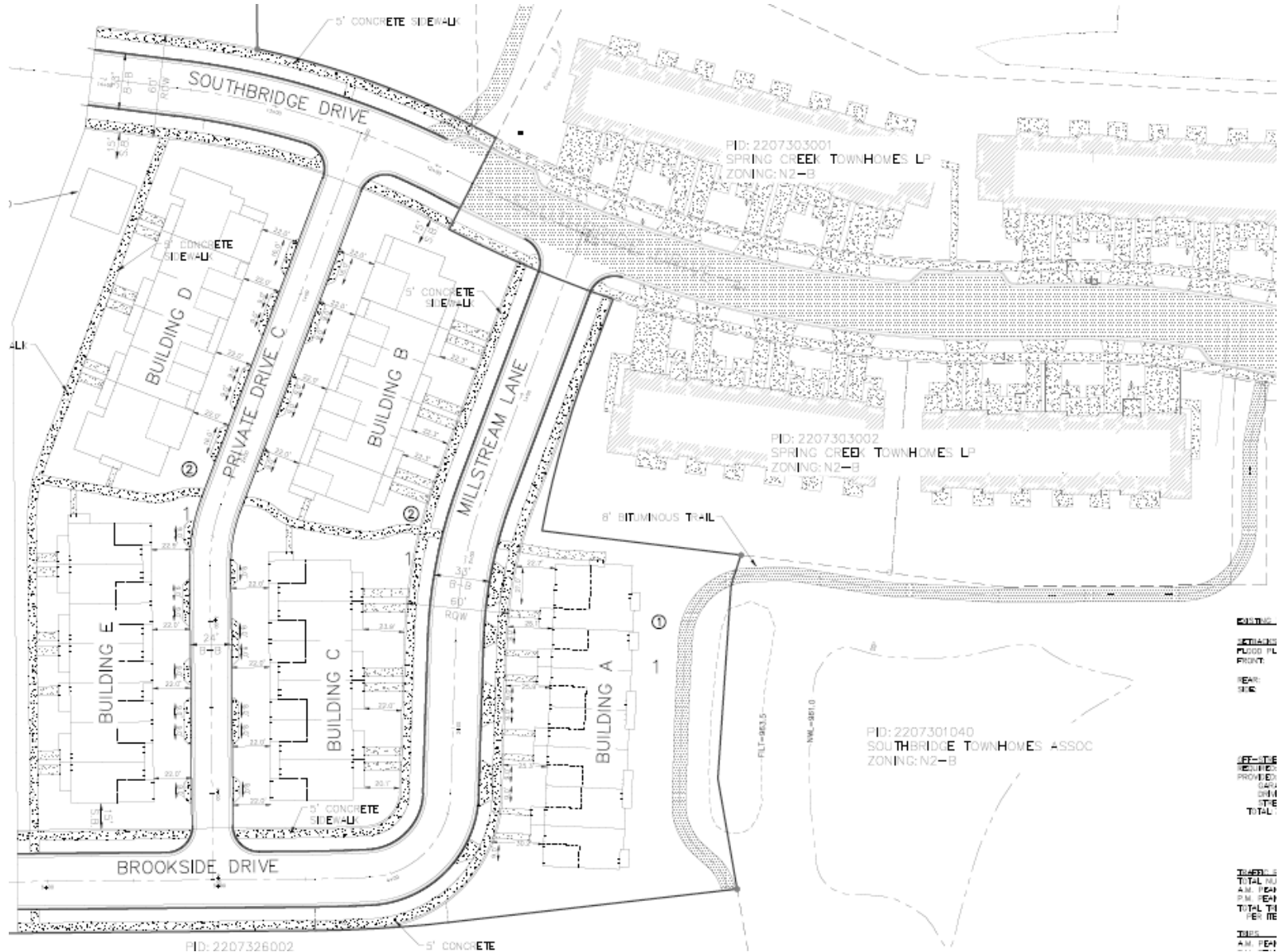
Notice was sent to the Northfield News and to adjacent property owners within 350 ft. in preparation of the public hearing.

The Planning Commission met, held a public hearing and discussed the preliminary plat request on June 24, 2020. They approved the preliminary plat and included an intent to connect Millstream Ln. to the south through the Bluff View prelim. plat to Ford St.

The Planning Commission was asked to reconsider their condition at their July 16, 2020 meeting. The commission chose not to reconsider the item.

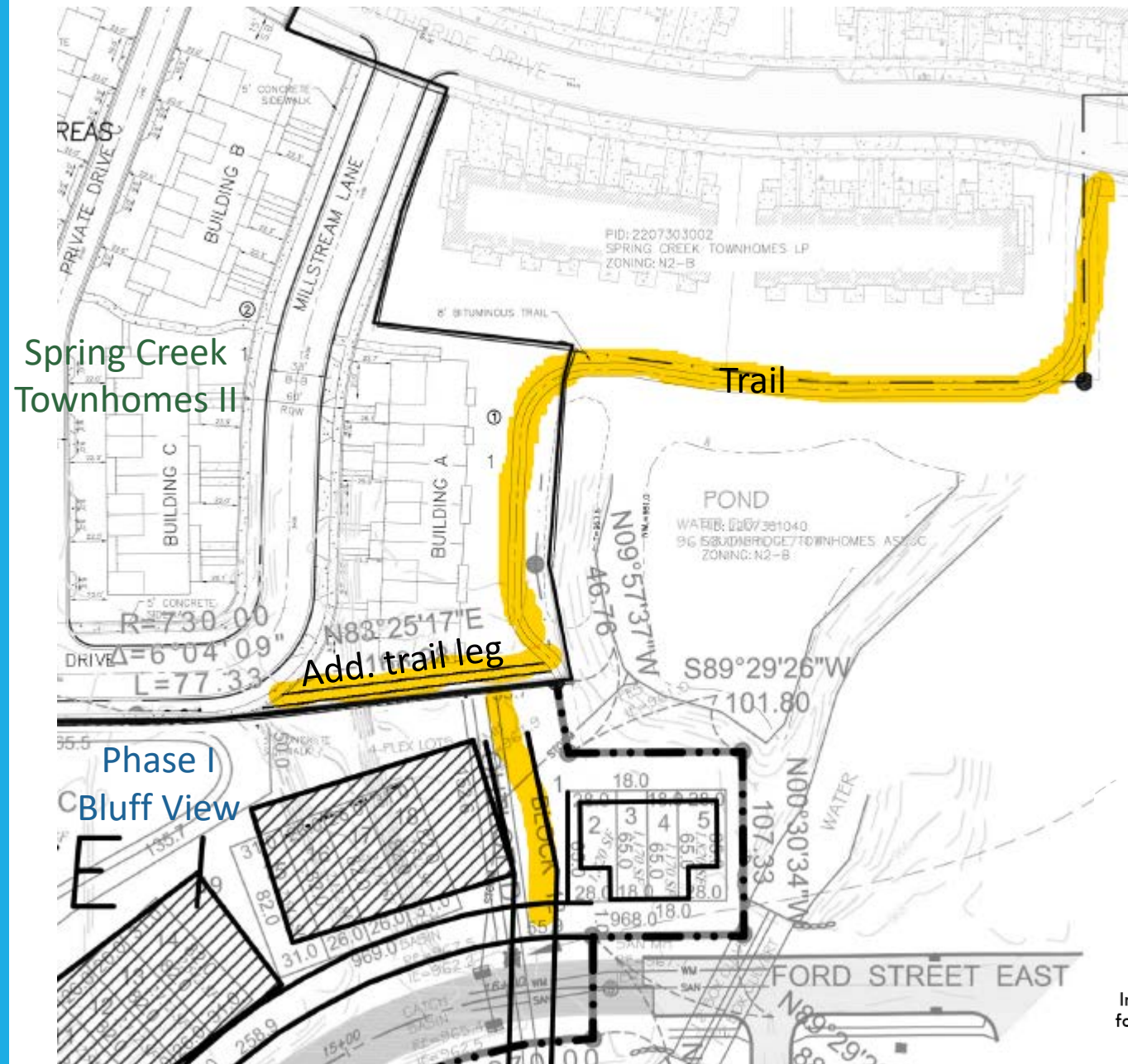
The Parks & Recreation Advisory Board reviewed the preliminary plat on July 16, 2020 as well and were in support of the plat.

Spring Creek Townhomes 2nd Addition – Prelim. Plat



Action Requested

Staff is recommending approval of the preliminary plat as presented by the applicant with the addition to include a new leg of trail connecting Millstream Ln./Brookside Dr. and the trail along Spring Creek.



Spring Creek
Townhomes II

Trail

Add trail leg

Phase I
Bluff View



Image is not to scale,
for reference use only

Approximate location of the
additional trail leg.

Shows the connection of the
trail through Bluff View
prelim. plat to Ford St.

Combined map of Spring Creek 2nd, Spring Creek 1st and all phases of Bluff View.

Shows the greater roadway connections.

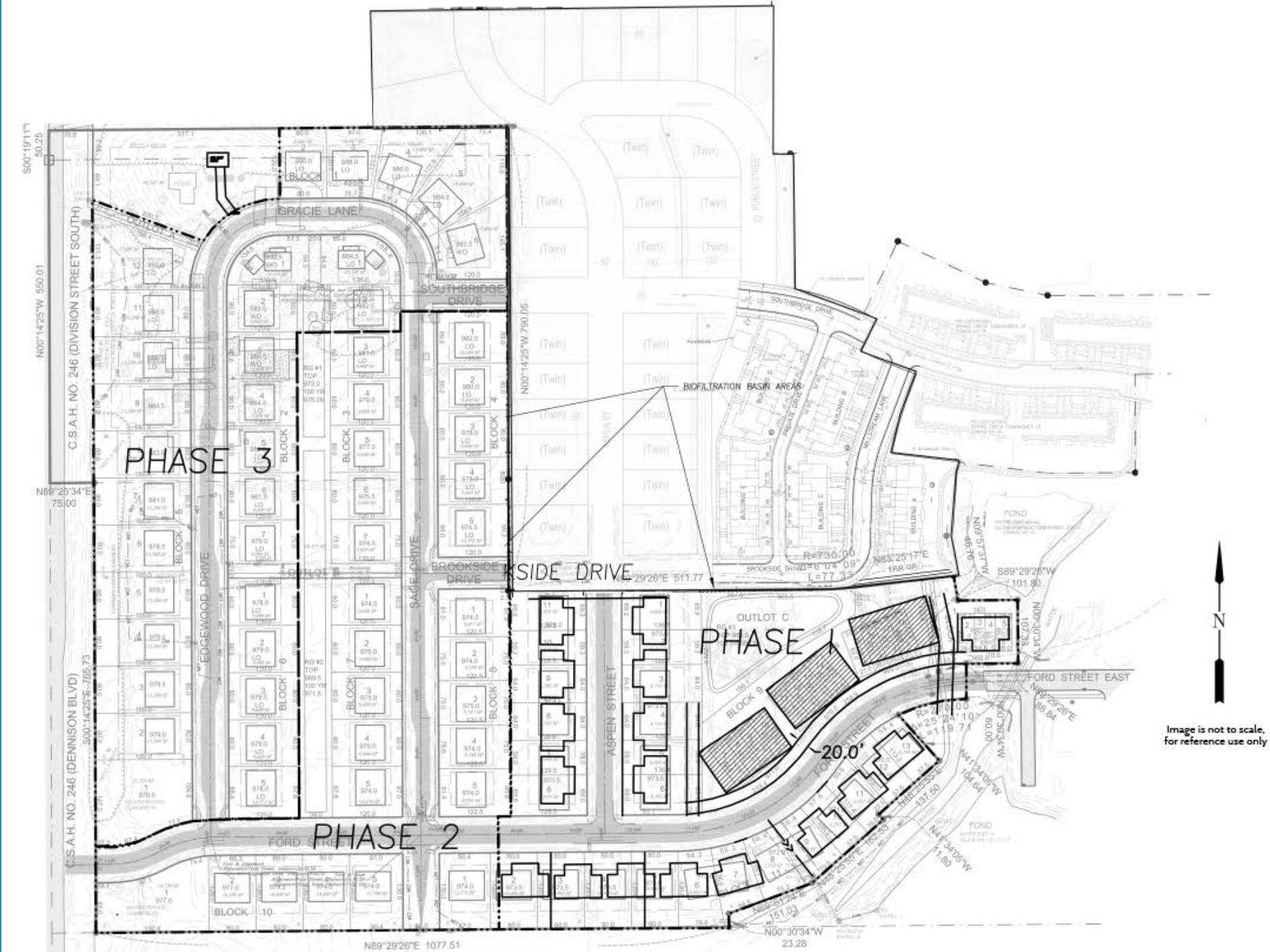


Image is not to scale, for reference use only



Date: August 3, 2020
To: Honorable Mayor & City Council
From: Ben Martig, Northfield City Administrator
Subject: **City Administrator Report**

Action Requested:
None

Summary Report:

As I mentioned last meeting, the League of Minnesota Cities provided some updates related to recently passed special legislation related to police reforms. I have included two updates from the LMC on August 3 and July 21. The following are some areas noted in the July 21 LMC summary with a specific response by Chief Elliott as how they relate to Northfield Police Department.

- Defines “public safety peer counseling” and “critical incident stress management” and protects information shared during peer counseling and critical incident stress management settings by classifying it as private data.
 - This section is helpful in ensuring officers can share how they are feeling after critical incidents in a safe way to allow processing of the incident to reduce prolonged negative effects of high stress incidents, and to encourage getting help early when feeling negative effects from stress. This is an area NPD hopes to make improvements in as we follow 21st Century Police Reform recommendations in supporting officer wellness.

- Severely restricts the use of choke holds, tying all of a person’s limbs together behind the person’s back to render the person immobile, or securing a person in any way that results in transporting the person face down in a vehicle.
 - Northfield PD already follows these changes and has had these restrictions in place and trained on them for years.

- Prohibits law enforcement agencies from providing or funding “warrior-style” training to peace officers and prohibits officers from receiving continuing education credits or tuition reimbursement for warrior-style training.
 - Northfield has not sent anyone to this type of training for several years, the focus on training has been in diversity, equity, and inclusion, and critical incident and mental health response.
- Expands peace officer training in cultural diversity, mental illness, crisis intervention, and autism.
 - This has been a focus of NPD training for several years, and in fact NPD has been very involved with the City of Northfield in developing the city’s Racial Equity Action Plan passed by the Council at the last meeting. This action plan includes training for all city employees on some of these topics.
 - The police department requires training on all of these items annually for all officers.
- Requires the POST Board to develop a “duty-to-intercede” model policy mandating peace officers to intercede when present and observing another peace officer using force that is clearly beyond what is objectively reasonable (this provision also contains a duty to report the incident to a supervisor).
 - Northfield already follows this, and trains on this, although there is a need to change the policy language to match the requirements in the new legislation.
 - The Northfield PD started an entire police manual revision in April, before the current calls for police reform. This process is ongoing and will be completed by the end of 2020. Some of the policies (Use of force, training, etc.) related to police reform are on hold until the MN POST Board model policies are developed and distributed, as has been required by the legislative action.

This is just a little additional information for your information. I will provide other updates verbally at the meeting.

Alternative Options:

None recommended.

Financial Impacts:

Not applicable.

Timelines:

Not applicable.

League Calls on Legislature to Keep Working on Police Arbitration Reform

August 3, 2020

The League is seeking law enforcement arbitration reform that would result in more effective discipline for officers who violate policies and undermine the public's trust.

The police reform bill the Legislature passed during the second special session in July included changes to law enforcement arbitration, but the League is seeking additional measures.

The police reform package, [Second Special Session Chapter 1](#), authored by [Rep. Carlos Mariani](#) (DFL-St. Paul) and [Sen. Warren Limmer](#) (R-Maple Grove), was signed into law as the Police Accountability Act on July 23. ([Read more about the legislation.](#))

The law enforcement arbitration reform measures included in the law were not what the League was working to accomplish. The League sought inclusion of a measure that would reduce the standard of review in law enforcement grievances to a reasonable standard and also provide a process for appeals when a termination or serious discipline is overturned. Despite working with legislators on both sides of the aisle, the League's preferred reforms were not included in the final package.

What passed?

What passed is a modified version of the current arbitration system that will apply exclusively to law enforcement grievances. Under the new law, which goes into effect Sept. 1, 2020, the commissioner of the Bureau of Mediation Services (BMS), in consultation with community and law enforcement stakeholders, will appoint a roster of six people suited and qualified by training and experience to act as arbitrators for peace officer grievance arbitrations.

In making these appointments, the commissioner may consider a candidate's familiarity with labor law, the grievance process, and the law enforcement profession; or experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences. Arbitrators on this roster cannot serve as arbitrators in labor arbitrations other than law enforcement grievance arbitrations.

The commissioner must assign arbitrators from the approved roster to peace officer grievance arbitrations on a rotating basis alphabetically ordered by last name. The parties may not participate in, negotiate for, or agree to the selection of an arbitrator or arbitration panel. The decision of the arbitrator is binding.

Lastly, police unions do not have the right to negotiate for or agree to a collective bargaining agreement or a grievance arbitration selection procedure with their employers that is inconsistent with this law.

League responds

On July 24, the League sent a letter to legislative leaders and the House and Senate members who worked on the arbitration reform provision. In the letter, the League expressed frustration with the outcome and requested that the Legislature continue to work on meaningful reform to the law enforcement arbitration process. Specifically, the League is asking for two modifications:

1. The League requests a new reasonable standard of review required of the arbitrator in police misconduct cases.
2. The League supports using administrative law judges (ALJs) for grievances involving terminations and discipline related to police misconduct.

—see attached letter)

What's next?

The League is encouraging member cities to reach out to their local legislators to advocate for these provisions. There is the potential for the Legislature to reopen the Police Accountability Act in a future special session or in the 2021 regular session to make clarifying changes and technical corrections.

If the Police Accountability Act is reopened, the League will advocate for additional language around arbitration reform.



July 24, 2020

The Honorable Melissa Hortman
The Honorable Ryan Winkler
The Honorable Kurt Daudt
The Honorable Paul Gazelka
The Honorable Susan Kent

Re: Police Accountability Act Provisions

Dear Legislative Leaders,

The League of Minnesota Cities is a statewide association representing 834 of Minnesota's 853 cities. Our member cities employ a significant portion of the approximately 11,000 licensed peace officers across Minnesota.

The League supports and appreciates your recent work to pass the Police Accountability Act, Chapter 1 of the Second Special Session of 2020. We acknowledge that responding to and incorporating the input of a wide array of stakeholders is a difficult task, and this was made more challenging by the necessity of working remotely during the COVID-19 pandemic. We appreciated the opportunity to be involved in initial discussions but were disappointed that as the work progressed, not only was the input of our membership no longer sought, but we were effectively left out of the process. We hope that as this work continues, we can again partner with you to bring forth meaningful changes on behalf of Minnesota's cities and their residents and businesses.

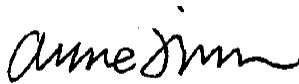
The killing of George Floyd made it clear there is urgent need to strengthen the public's trust in peace officers and bolster collaboration between communities and law enforcement where it is lacking. The League believes an important component of making progress toward these goals lies in changes to the arbitration system. The League has long sought reforms that would help more effectively discipline officers who violate policies and undermine the public's confidence in the criminal justice system. While Chapter 1 is an important first step, we strongly urge continued work on important and necessary reforms.

Central to our suggestions are changes significant enough to discourage behaviors that undermine public trust and to foster a stronger culture of community policing. In that vein, we are continuing to advocate for the following reforms to the law enforcement grievance process and will do so as the Legislature considers additional proposals in subsequent special sessions and in the 2021 legislative session:

- The League requests a new reasonable standard of review required of the arbitrator in police misconduct cases. This is necessary to uphold those discipline decisions which are entrusted to local officials ultimately responsible for protecting their communities. Including a new, reduced, standard of review in police discipline matters is important to truly foster cultural change as well as to enhance and support effective police officer accountability and transparency measures that are included in the Police Accountability Act. A standard of reasonableness would focus the arbitrator's role on simply determining whether the facts presented show that the employer's actions were reasonable and consistent with city and departmental policies.
- The League supports using administrative law judges (ALJs) for grievances involving terminations and discipline related to police misconduct. The ALJ process would involve robust fact-finding and technical legal parameters that would help ensure a thorough review of the officer's and employer's actions. This model also provides an appeals process, which the arbitration process does not. The League believes the severity of some police cases warrant them being elevated into the ALJ system.

Thank you again for your ongoing work. The League of Minnesota Cities looks forward to partnering with you to continue advancing meaningful reforms. I can be reached at 651-402-1185 or afinn@lmc.org.

Sincerely,



Anne Finn
Assistant Intergovernmental Relations Director

cc: Representative Kaohly Her
Representative Mike Howard
Representative Brian Johnson
Representative Carlos Mariani
Representative Marion O'Neill
Senator Jim Carlson
Senator Mary Kiffmeyer
Senator Ron Latz
Senator Warren Limmer

Office of the Revisor of Statutes

Minnesota Session Laws - 2020, 2nd Special Session

[Authenticate](#)

This document represents the act as presented to the governor. The version passed by the legislature is the [final engrossment](#). It does not represent the official 2020 session law, which will be available here summer 2020.

Key: (1) ~~language to be deleted~~ (2) new language

CHAPTER 1--H.F.No. 1

An act relating to public safety; providing for law enforcement; providing peer counseling, critical incident stress management, residency incentives, crisis intervention and mental illness crisis training, autism training, and duty to intercede and report for peace officers; regulating use of force; expanding membership of the Board of Peace Officer Standards and Training; prohibiting warrior-style training; providing for a community relations advisory council; providing for certain peace officer data; providing for peace officer grievance arbitration selection procedure; providing for reports; appropriating money; amending Minnesota Statutes 2018, sections 13.43, subdivision 9, by adding a subdivision; 415.16, by adding a subdivision; 609.06, subdivision 1, by adding a subdivision; 609.066, subdivision 2, by adding a subdivision; 626.841; 626.843, by adding a subdivision; 626.845, by adding a subdivision; 626.8452, subdivisions 4, 5, by adding a subdivision; 626.8457, subdivision 3; 626.8469; Laws 2019, First Special Session chapter 5, article 1, sections 12, subdivision 7; 13, subdivision 4; article 2, section 28, subdivisions 4, 5; proposing coding for new law in Minnesota Statutes, chapters 181; 299C; 626; repealing Minnesota Statutes 2018, section 181.973.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, section 13.43, subdivision 9, is amended to read:

Subd. 9. Peer counseling ~~debriefing~~ data. (a) ~~Data acquired by a peer group member in a support counselor when providing public safety peer counseling debriefing is private data on the person being debriefed are governed by section 181.9731.~~

(b) ~~For purposes of this subdivision, "public safety peer counseling debriefing" means a group process-oriented debriefing session held for peace officers, firefighters, medical emergency persons, dispatchers, or other persons involved with public safety emergency services, that is established by any government entity providing public safety emergency services and is designed to help a person who has suffered an occupation-related traumatic event begin the process of healing and effectively dealing with posttraumatic stress;~~

(1) ~~"peer support counselor" has the meaning given in section 181.9731, subdivision 1, paragraph (c); and~~

(2) ~~"public safety peer counseling" has the meaning given in section 181.9731, subdivision 1, paragraph (d).~~

EFFECTIVE DATE. ~~This section is effective August 1, 2020.~~

Sec. 2. Minnesota Statutes 2018, section 13.43, is amended by adding a subdivision to read:

Subd. 9a. Critical incident stress management data. (a) ~~Data acquired by a critical incident stress management team member when providing critical incident stress management services are governed by section 181.9732.~~

(b) ~~For purposes of this subdivision:~~

(1) ~~"critical incident stress management services" has the meaning given in section 181.9732, subdivision 1, paragraph (c);~~

~~and~~

(2) ~~"critical incident stress management team member" has the meaning given in section 181.9732, subdivision 1, paragraph~~

~~(e).~~

EFFECTIVE DATE. ~~This section is effective August 1, 2020.~~

Sec. 3. **[181.9731] PUBLIC SAFETY PEER COUNSELING.**

Subdivision 1. Definitions. (a) ~~For purposes of this section, the following terms have the meanings given.~~

(b) ~~"Emergency service provider" includes a peace officer, correctional officer, probation officer, supervision agent, firefighter, rescue squad member, dispatcher, hospital or emergency medical clinic personnel, a person who provides emergency medical services for a Minnesota licensed ambulance service, forensic science professional, or other person involved with public safety emergency services, either paid or volunteer.~~

(c) ~~"Peer support counselor" means an individual who is:~~

(1) ~~specialty trained to provide public safety peer counseling services in accordance with standards that are both (i) established by an accredited mental health organization or network, and (ii) recognized by the commissioner of public safety; and~~

(2) designated by the emergency service provider's agency to provide such services.

(d) "Public safety peer counseling" means one or more sessions, led by a peer support counselor, designed to help an emergency service provider who experienced an occupation-related trauma, illness, or stress develop skills and strategies to better understand, cope with, and process emotions and memories tied to the trauma, illness, or stress. Public safety peer counseling includes group sessions led by a peer support counselor, one-to-one contact with a peer support counselor, and meetings with a peer support counselor to obtain referrals to appropriate mental health or community support services.

Subd. 2. **Peer support counselor; prohibition on being witness or party.** A peer support counselor may not provide public safety peer counseling to an emergency service provider if the emergency service provider is seeking public safety peer counseling to address a critical incident, as defined in section 181.9732, subdivision 1, paragraph (b), to which the peer support counselor is a witness. A peer support counselor may refer the person to another peer support counselor or other appropriate mental health or community support service.

Subd. 3. **Disclosure prohibited.** (a) Except as provided in subdivision 4, a peer support counselor or any person who receives public safety peer counseling shall not be required to disclose information to a third party that was obtained solely through the provision or receipt of public safety peer counseling.

(b) Government data on individuals receiving peer counseling are classified as private data on individuals, as defined by section 13.02, subdivision 12, but may be disclosed as provided in subdivision 4.

Subd. 4. **Exceptions.** The prohibition established under subdivision 3 does not apply if any of the following are true:

(1) the peer support counselor reasonably believes the disclosure is necessary to prevent harm to self by the person in receipt of public safety peer counseling or to prevent the person from harming another person, provided the disclosure is only for the purpose of preventing the person from harming self or others and limited to information necessary to prevent such harm;

(2) the person receiving public safety peer counseling discloses information that is required to be reported under the mandated reporting laws, including, but not limited to, the reporting of maltreatment of minors under section 626.556 and the reporting of maltreatment of vulnerable adults under section 626.557, provided the disclosure is only for the purpose of reporting maltreatment and limited to information necessary to make such a report;

(3) the person who received public safety peer counseling provides written consent authorizing disclosure of the information;

(4) the emergency service provider who received public safety peer counseling is deceased and the surviving spouse or administrator of the estate of the deceased emergency service provider gives written consent authorizing disclosure of the information;
or

(5) the emergency service provider who received public safety peer counseling voluntarily testifies, in which case the peer support counselor may be compelled to testify on the same subject.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 4. [181.9732] CRITICAL INCIDENT STRESS MANAGEMENT.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Critical incident" means an event that results in acute or cumulative psychological stress or trauma to an emergency service provider. Critical incident includes but is not limited to any encounter which may result in the death of or serious injury to another person such as fatal motor vehicle accidents, child abuse investigations, death investigations, and large scale man-made or natural disasters.

(c) "Critical incident stress management services" means consultation, risk assessment, education, intervention, and other crisis intervention services provided by a critical incident stress management team or critical incident stress management team member to an emergency service provider affected by a critical incident.

(d) "Critical incident stress management team" means a group organized to provide critical incident stress management to emergency service providers and consists of critical incident stress management team members. A critical incident stress management team may include members from any emergency service discipline, mental health professionals, and designated emergency service chaplains.

(e) "Critical incident stress management team member" means an individual who:

(1) is trained to provide critical incident stress management services in accordance with standards that are both (i) established by a nationally recognized critical incident stress management organization or network, and (ii) recognized by the commissioner of public safety;

(2) was approved to function as a critical incident stress management team member prior to the time critical incident stress management services are provided; and

(3) is approved to function as a critical incident stress management team member at the time the critical incident stress management services are provided.

(f) "Emergency service provider" includes a peace officer, correctional officer, probation officer, supervision agent, firefighter, rescue squad member, dispatcher, hospital or emergency medical clinic personnel, a person who provides emergency medical services for a Minnesota licensed ambulance service, forensic science professional, or other person involved with public safety emergency services, either paid or volunteer.

Subd. 2. **Team members; prohibition on being witness or party.** A person who otherwise qualifies as a critical incident stress management team member may not be part of a critical incident stress management team providing services to an emergency service provider if the critical incident stress management team member is a witness to the critical incident for which the person is receiving services.

Subd. 3. **Disclosure prohibited.** (a) Except as provided in subdivision 4, a critical incident stress management team member or any person who receives critical incident stress management services shall not be required to disclose information to a third party that was obtained solely through the provision or receipt of critical incident stress management services.

(b) Government data on individuals receiving critical incident stress management services are classified as private data on individuals, as defined by section 13.02, subdivision 12, but may be disclosed as provided in subdivision 4.

Subd. 4. **Exceptions.** The prohibition established under subdivision 3 does not apply if any of the following are true:

(1) the critical incident stress management team member reasonably believes the disclosure is necessary to prevent harm to self by the person in receipt of critical incident stress management services or to prevent the person from harming another person, provided the disclosure is only for the purpose of preventing the person from harming self or others and limited to information necessary to prevent such harm;

(2) the person receiving critical incident stress management services discloses information that is required to be reported under the mandated reporting laws, including, but not limited to, the reporting of maltreatment of minors under section 626.556 and the reporting of maltreatment of vulnerable adults under section 626.557, provided the disclosure is only for the purpose of reporting maltreatment and limited to information necessary to make such a report;

(3) the person who received critical incident stress management services provides written consent authorizing disclosure of the information;

(4) the emergency service provider who received critical incident stress management services is deceased and the surviving spouse or administrator of the estate of the deceased emergency service provider gives written consent authorizing disclosure of the information; or

(5) the emergency service provider who received critical incident stress management services voluntarily testifies, in which case the critical incident stress management team member may be compelled to testify on the same subject.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 5. ~~[299C.80]~~ INDEPENDENT USE OF FORCE INVESTIGATIONS UNIT.

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings provided.

(b) "Law enforcement agency" has the meaning given in section 626.84, subdivision 1, paragraph (f).

(c) "Officer-involved death" means the death of another that results from a peace officer's use of force while the officer is on duty or off duty but performing activities that are within the scope of the officer's law enforcement duties.

(d) "Peace officer" has the meaning given in section 626.84, subdivision 1, paragraph (c).

(e) "Superintendent" means the superintendent of the Bureau of Criminal Apprehension.

(f) "Unit" means the independent Use of Force Investigations Unit.

Subd. 2. **Formation; special agent in charge; duty.** The superintendent shall form an independent Use of Force Investigations Unit within the Bureau of Criminal Apprehension to conduct officer-involved death investigations. The superintendent, in consultation with the commissioner of public safety, shall select a special agent in charge of the unit.

Subd. 3. **Additional duty.** The unit shall investigate all criminal sexual conduct cases involving peace officers, including criminal sexual conduct cases involving chief law enforcement officers. The unit may also investigate conflict of interest cases involving peace officers.

Subd. 4. **Staff; support.** The unit shall employ peace officers and staff to conduct investigations and the superintendent shall develop and implement policies and procedures to ensure no conflict of interest exists with agents assigned to investigate a particular incident. The superintendent may permit bureau resources not directly assigned to this unit to be used to assist the unit in fulfilling the duties assigned in this section.

Subd. 5. **Conflicts.** When a peace officer employed by the Bureau of Criminal Apprehension is the subject of an officer-involved death investigation, the investigation shall be conducted by an investigatory agency selected by the county attorney in the jurisdiction where the alleged offense took place.

Subd. 6. Reporting. As provided for in chapter 13, the superintendent must make all inactive investigative data for officer-involved death investigations that are public under section 13.82, subdivision 7, or other applicable law available on the bureau's website within 30 days of the end of the last criminal appeal of a subject of an investigation. By February 1 of each year, the superintendent shall report to the commissioner, the governor, and the chairs and ranking minority members of the legislative committees with jurisdiction over public safety finance and policy the following information about the unit: the number of investigations initiated; the number of incidents investigated; the outcomes or current status of each investigation; the charging decisions made by the prosecuting authority of incidents investigated by the unit; the number of plea agreements reached in incidents investigated by the unit; and any other information relevant to the unit's mission.

Subd. 7. Expiration. The independent use of force investigations unit expires August 1, 2024.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 6. Minnesota Statutes 2018, section 415.16, is amended by adding a subdivision to read:

Subd. 1a. Residency incentives for peace officers. A statutory or home rule charter city or county may offer incentives to encourage a person hired as a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), to be a resident of the city or county.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 7. Minnesota Statutes 2018, section 609.06, subdivision 1, is amended to read:

Subdivision 1. **When authorized.** Except as otherwise provided in ~~subdivision~~ subdivisions 2 and 3, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) when used by a public officer or one assisting a public officer under the public officer's direction:

(a) in effecting a lawful arrest; or

(b) in the execution of legal process; or

(c) in enforcing an order of the court; or

(d) in executing any other duty imposed upon the public officer by law; or

(2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or

(3) when used by any person in resisting or aiding another to resist an offense against the person; or

(4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property; or

(5) when used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or

(6) when used by a parent, guardian, teacher, or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

(7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

(8) when used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to the passenger's personal safety; or

(9) when used to restrain a person with a mental illness or a person with a developmental disability from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct, or treatment; or

(10) when used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct, or treatment of the committed person.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 8. Minnesota Statutes 2018, section 609.06, is amended by adding a subdivision to read:

Subd. 3. Limitations on the use of certain restraints. (a) A peace officer may not use any of the following restraints unless section 609.066 authorizes the use of deadly force to protect the peace officer or another from death or great bodily harm:

(1) a choke hold;

(2) tying all of a person's limbs together behind the person's back to render the person immobile; or

(3) securing a person in any way that results in transporting the person face down in a vehicle.

(b) For the purposes of this subdivision, "choke hold" means a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2018, section 609.066, is amended by adding a subdivision to read:

Subd. 1a. Legislative intent. The legislature hereby finds and declares the following:

(1) that the authority to use deadly force, conferred on peace officers by this section, is a critical responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law;

(2) as set forth below, it is the intent of the legislature that peace officers use deadly force only when necessary in defense of human life or to prevent great bodily harm. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case;

(3) that the decision by a peace officer to use deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using deadly force; and

(4) that peace officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

EFFECTIVE DATE. This section is effective March 1, 2021.

Sec. 10. Minnesota Statutes 2018, section 609.066, subdivision 2, is amended to read:

Subd. 2. Use of deadly force. (a) Notwithstanding the provisions of section 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary:

(1) to protect the peace officer or another from apparent death or great bodily harm, provided that the threat:

(i) can be articulated with specificity by the law enforcement officer;

(ii) is reasonably likely to occur absent action by the law enforcement officer; and

(iii) must be addressed through the use of deadly force without unreasonable delay; or

(2) to effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in clause (1), items (i) to (iii), unless immediately apprehended.

~~(3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.~~

(b) A peace officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (a), clause (1), items (i) to (iii).

EFFECTIVE DATE. This section is effective March 1, 2021.

Sec. 11. **[626.5534] USE OF FORCE REPORTING.**

Subdivision 1. Report required. A chief law enforcement officer must provide the information requested by the Federal Bureau of Investigation about each incident of law enforcement use of force resulting in serious bodily injury or death, as those terms are defined in the Federal Bureau of Investigation's reporting requirements, to the superintendent of the Bureau of Criminal Apprehension. The superintendent shall adopt a reporting form for use by law enforcement agencies in making the report required under this section. The report must include for each incident all of the information requested by the Federal Bureau of Investigation.

Subd. 2. Use of information collected. A chief law enforcement officer must file the report under subdivision 1 once a month in the form required by the superintendent. The superintendent must summarize and analyze the information received and submit an annual written report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety. The superintendent shall submit the information to the Federal Bureau of Investigation.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 12. Minnesota Statutes 2018, section 626.841, is amended to read:

626.841 BOARD; MEMBERS.

The Board of Peace Officer Standards and Training shall be composed of the following ~~15~~ 17 members:

- (1) two members to be appointed by the governor from among the county sheriffs in Minnesota;
- (2) four members to be appointed by the governor from among peace officers in Minnesota municipalities, at least two of whom shall be chiefs of police;
- (3) two members to be appointed by the governor from among peace officers, at least one of whom shall be a member of the Minnesota State Patrol Association;
- (4) the superintendent of the Minnesota Bureau of Criminal Apprehension or a designee;
- (5) two members appointed by the governor from among peace officers, or former peace officers, who are currently employed on a full-time basis in a professional peace officer education program;
- (6) two members to be appointed by the governor, one member to be appointed from among administrators of Minnesota colleges or universities that offer professional peace officer education, and one member to be appointed from among the elected city officials in statutory or home rule charter cities of under 5,000 population outside the metropolitan area, as defined in section [473.121, subdivision 2](#); and
- (7) ~~two~~ four members appointed by the governor from among the general public.

A chair shall be appointed by the governor from among the members. In making appointments the governor shall strive to achieve representation from among the geographic areas of the state.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 13. Minnesota Statutes 2018, section 626.843, is amended by adding a subdivision to read:

Subd. 1b. Rules governing complaints. If the board adopts rules to establish a subcommittee to investigate licensure actions, the subcommittee must have:

- (1) one voting board member appointed from the general public; and
- (2) three voting board members who are current or former peace officers.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 14. **[626.8434] WARRIOR-STYLE TRAINING PROHIBITED.**

Subdivision 1. Definition. For purposes of this section, "warrior-style training" means training for peace officers that dehumanizes people or encourages aggressive conduct by peace officers during encounters with others in a manner that deemphasizes the value of human life or constitutional rights, the result of which increases a peace officer's likelihood or willingness to use deadly force.

Subd. 2. No continuing education credits or tuition reimbursement. (a) The board may not certify a continuing education course that includes warrior-style training.

(b) The board may not grant continuing education credit to a peace officer for a course that includes warrior-style training.

(c) The board may not reimburse a law enforcement agency or a peace officer for a course that includes warrior-style training.

Subd. 3. Training prohibited. A law enforcement agency may not provide warrior-style training, directly or through a third party, to a peace officer.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 15. **[626.8435] ENSURING POLICE EXCELLENCE AND IMPROVING COMMUNITY RELATIONS ADVISORY COUNCIL.**

Subdivision 1. Establishment and membership. The Ensuring Police Excellence and Improving Community Relations Advisory Council is established under the Peace Officer Standards and Training Board. The council consists of the following 15 members:

- (1) the superintendent of the Bureau of Criminal Apprehension, or a designee;
- (2) the executive director of the Peace Officer Standards and Training Board, or a designee;
- (3) the executive director of the Minnesota Police and Peace Officers Association, or a designee;
- (4) the executive director of the Minnesota Sheriff's Association, or a designee;
- (5) the executive director of the Minnesota Chiefs of Police Association, or a designee; and

(6) six community members, of which:

(i) four members shall represent the community-specific boards established under section 257.0768, reflecting one appointment made by each board;

(ii) one member shall be a mental health advocate and shall be appointed by the Minnesota chapter of the National Alliance on Mental Illness; and

(iii) one member shall be an advocate for victims and shall be appointed by Violence Free Minnesota; and

(7) four members appointed by the legislature, of which one shall be appointed by the speaker of the house, one by the house minority leader, one by the senate majority leader, and one by the senate minority leader.

The appointing authorities shall make their appointments by September 15, 2020, and shall ensure geographical balance when making appointments.

Subd. 2. Purpose and duties. (a) The purpose of the council is to assist the board in maintaining policies and regulating peace officers in a manner that ensures the protection of civil and human rights. The council shall provide for citizen involvement in policing policies, regulations, and supervision. The council shall advance policies and reforms that promote positive interactions between peace officers and the community.

(b) The board chair must place the council's recommendations to the board on the board's agenda within four months of receiving a recommendation from the council.

Subd. 3. Organization. The council shall be organized and administered under section 15.059, except that the council does not expire. Council members serve at the pleasure of the appointing authority. The council shall select a chairperson from among the members by majority vote at its first meeting. The executive director of the board shall serve as the council's executive secretary.

Subd. 4. Meetings. The council must meet at least quarterly. Meetings of the council are governed by chapter 13D. The executive director of the Peace Officer Standards and Training Board shall convene the council's first meeting, which must occur by September 1, 2020.

Subd. 5. Office support. The executive director of the Peace Officer Standards and Training Board shall provide the council with the necessary office space, supplies, equipment, and clerical support to effectively perform the duties imposed.

Subd. 6. Reports. The council shall submit a report by February 15 of each year to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy and the board. At a minimum, the report shall include:

(1) all recommendations presented to the board and how the board acted on those recommendations;

(2) recommendations for statutory reform or legislative initiatives intended to promote police-community relations; and

(3) updates on the council's review and determinations.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 16. Minnesota Statutes 2018, section 626.845, is amended by adding a subdivision to read:

Subd. 3. Peace officer data. The board, in consultation with the Minnesota Chiefs of Police Association, Minnesota Sheriff's Association, and Minnesota Police and Peace Officers Association, shall create a central repository for peace officer data designated as public data under chapter 13. The database shall be designed to receive, in real time, the public data required to be submitted to the board by law enforcement agencies in section 626.8457, subdivision 3, paragraph (b). To assure the anonymity of individuals, the database must use encrypted data to track information transmitted on individual peace officers.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2018, section 626.8452, is amended by adding a subdivision to read:

Subd. 1a. Updated policy required. (a) By September 1, 2020, the board, in consultation with interested parties, shall adopt an updated comprehensive written model policy on the use of force, including deadly force, by peace officers, and distribute this policy to the chief law enforcement officer of every law enforcement agency in the state. The model policy must recognize and respect the sanctity and value of all human life and the need to treat everyone with dignity and without prejudice. At a minimum, the policy must include:

(1) a duty for peace officers to intercede when present and observing another peace officer using force that is clearly beyond what is objectively reasonable under the law and the particular circumstances of the case, and in a position to do so;

(2) a duty for peace officers to report any illegal use of force by another peace officer to the officer's chief law enforcement officer; and

(3) a duty for peace officers to only use deadly force including techniques that are restricted by section 609.06, subdivision 3, as authorized in section 609.066. However, even in those circumstances, the policy must require that less lethal measures be considered first by the officer.

(b) The board shall incorporate all applicable standards in sections 609.06, subdivision 3, and 609.066, even if a standard has a delayed effective date. The revised model policy shall clearly identify the effective date of provisions with an effective date beyond September 1, 2020.

(c) By December 15, 2020, the chief law enforcement officer of every state and local law enforcement agency must update the policy required under subdivision 1 so that it is identical or substantially similar to the model policy developed by the board under subdivision 1a. The board must assist the chief law enforcement officer of each state and local law enforcement agency in developing and implementing policies under this subdivision.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 18. Minnesota Statutes 2018, section 626.8452, subdivision 4, is amended to read:

Subd. 4. **Record keeping required.** The head of every local and state law enforcement agency shall maintain written records of the agency's compliance with the requirements of subdivisions 1a, 2, and 3.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 19. Minnesota Statutes 2018, section 626.8452, subdivision 5, is amended to read:

Subd. 5. **Licensing sanctions; injunctive relief.** The board has authority to inspect state and local law enforcement agency policies to ensure compliance with this section. The board may conduct this inspection based upon a complaint it receives about a particular agency or through a random selection process. The board may impose licensing sanctions and seek injunctive relief under section 214.11 for failure to comply with the requirements of this section.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 20. Minnesota Statutes 2018, section 626.8457, subdivision 3, is amended to read:

Subd. 3. **Report on alleged misconduct; database; report.** (a) A chief law enforcement officer shall report annually to the board summary data regarding the investigation and disposition of cases involving alleged misconduct, indicating the total number of investigations, the total number by each subject matter, the number dismissed as unfounded, and the number dismissed on grounds that the allegation was unsubstantiated.

(b) Beginning January 15, 2021, a chief law enforcement officer, in real time, must submit individual peace officer data classified as public and submitted using encrypted data that the board determines is necessary to:

(1) evaluate the effectiveness of statutorily required training;

(2) assist the Ensuring Police Excellence and Improving Community Relations Advisory Council in accomplishing the council's duties; and

(3) allow for the board, the Ensuring Police Excellence and Improving Community Relations Advisory Council, and the board's complaint investigation committee to identify patterns of behavior that suggest an officer is in crisis or is likely to violate a board-mandated model policy.

(c) The reporting obligation in paragraph (b) is ongoing. A chief law enforcement officer must update data within 30 days of final disposition of a complaint or investigation.

(d) Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in paragraph (b) to the board. Any such confidentiality agreement is void as to the requirements of this section.

(e) By February 1 of each year, the board shall prepare a report that contains summary data provided under paragraph (b). The board must post the report on its publicly accessible website and provide a copy to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice policy.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 21. Minnesota Statutes 2018, section 626.8469, is amended to read:

626.8469 TRAINING IN CRISIS RESPONSE, CONFLICT MANAGEMENT, AND CULTURAL DIVERSITY.

Subdivision 1. **In-service training required.** Beginning July 1, 2018, the chief law enforcement officer of every state and local law enforcement agency shall provide in-service training in crisis intervention and mental illness crises; conflict management and mediation; ensuring safer interactions between peace officers and persons with autism; and recognizing and valuing community diversity and cultural differences to include implicit bias training to every peace officer and part-time peace officer employed by the agency. The training shall comply with learning objectives developed and approved by the board ~~and~~, shall meet board requirements for board-approved continuing education credit, and shall be provided by an approved entity. The board shall create a list of approved entities and training courses and make the list available to the chief law enforcement officer of every state and local law enforcement

agency. Crisis intervention and mental illness crisis training shall meet the standards in subdivision 1a. The training shall consist of at least 16 continuing education credits with a minimum of six hours for crisis intervention and mental illness crisis training and four hours to ensure safer interactions between peace officers and persons with autism within an officer's three-year licensing cycle. Each peace officer with a license renewal date after June 30, 2018, is not required to complete this training until the officer's next full three-year licensing cycle.

Subd. 1a. Crisis intervention and mental illness crisis training. (a) The board, in consultation with the commissioner of human services and mental health stakeholders, shall create a list of approved entities and training courses to instruct peace officers in techniques for responding to a mental illness crisis. A course must include scenario-based instruction and cover most of the following issues:

- (1) techniques for relating to individuals with mental illnesses and the individuals' families;
- (2) techniques for crisis de-escalation;
- (3) techniques for relating to diverse communities and education on mental illness diversity;
- (4) mental illnesses and the criminal justice system;
- (5) community resources and supports for individuals experiencing a mental illness crisis and for the individuals' families;
- (6) psychotropic medications and the medications' side effects;
- (7) co-occurring mental illnesses and substance use disorders;
- (8) suicide prevention; and
- (9) mental illnesses and disorders and the symptoms.

(b) A course must also include training on children and families of individuals with mental illnesses to enable officers to respond appropriately to others who are present during a mental illness crisis. The board shall update the list of approved entities and training courses periodically as it considers appropriate.

Subd. 2. Record keeping required. The head of every local and state law enforcement agency shall maintain written records of the agency's compliance with the requirements of ~~subdivision 1.~~ subdivisions 1 and 1a including, at a minimum:

- (1) documentation of the training provider;
- (2) documentation of the content of the training provided;
- (3) documentation that crisis intervention and mental illness crisis training included scenario-based instruction in compliance with the standards described in subdivision 1a;
- (4) compiled evaluations; and
- (5) explanation of expenditure of funds.

The documentation is subject to periodic review by the board, and shall be made available submitted to the board at its request. The board shall include in the compliance reviews required in section 626.8459 an evaluation of the effectiveness of in-service training provided under this section in reducing officer use of force and diverting people experiencing a mental illness crisis from arrest.

Subd. 3. Licensing sanctions; injunctive relief. The board may impose licensing sanctions and seek injunctive relief under section [214.11](#) for failure to comply with the requirements of this section.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 22. ~~[626.8474]~~ **AUTISM TRAINING.**

Subdivision 1. Learning objectives required. (a) By January 1, 2021, the board shall prepare learning objectives for preservice and in-service training on ensuring safer interactions between peace officers and persons with autism. At a minimum, the objectives must address the following:

- (1) autism overview and behavioral understanding;
 - (2) best practices for interventions and de-escalation strategies;
 - (3) prevention and crisis reduction models; and
 - (4) objective review of tools and technology available.
- (b) In developing the learning objectives, the board shall consult with, at a minimum:
- (1) individuals with autism;
 - (2) family members of individuals with autism;
 - (3) autism experts; and
 - (4) peace officers.

Subd. 2. Preservice training required. (a) The learning objectives developed pursuant to subdivision 1 must be included in the required curriculum of professional peace officer educational programs.

(b) A person is not eligible to take the peace officer licensing examination after July 1, 2021, unless the individual has received the training described in paragraph (a).

Subd. 3. In-service training required. Beginning July 1, 2021, the chief law enforcement officer of every state and local law enforcement agency shall provide in-service autism training to every peace officer and part-time peace officer employed by the agency. The training must comply with the learning objectives developed and approved by the board and must meet board requirements for board-approved continuing education credit. The training must consist of at least four continuing education credits of the credits required under section 626.8469 within an officer's three-year licensing cycle. Each peace officer with a license renewal date after June 30, 2021, is not required to complete this training until the officer's next full three-year licensing cycle.

Subd. 4. Record keeping required. The head of every local and state law enforcement agency shall maintain written records of the agency's compliance with the requirements of subdivision 3. The documentation is subject to periodic review by the board, and must be made available to the board at its request.

Subd. 5. Licensing sanctions; injunctive relief. The board may impose licensing sanctions and seek injunctive relief under section 214.11 for failure to comply with the requirements of this section.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 23. [626.8475] DUTY TO INTERCEDE AND REPORT.

(a) Regardless of tenure or rank, a peace officer must intercede when:

(1) present and observing another peace officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and

(2) physically or verbally able to do so.

(b) A peace officer who observes another employee or peace officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting peace officer.

(c) A peace officer who breaches a duty established in this subdivision is subject to discipline by the board under Minnesota Rules, part 6700.1600.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 24. [626.892] PEACE OFFICER GRIEVANCE ARBITRATION SELECTION PROCEDURE.

Subdivision 1. Definitions. (a) For the purposes of this section, the terms defined in this section have the meanings given them.

(b) "Commissioner" means the commissioner of the Bureau of Mediation Services.

(c) "Employer" means a political subdivision or law enforcement agency employing a peace officer.

(d) "Grievance" means a dispute or disagreement regarding any written disciplinary action, discharge, or termination decision of a peace officer arising under a collective bargaining agreement covering peace officers.

(e) "Grievance arbitration" means binding arbitration of a grievance under the grievance procedure in a collective bargaining agreement covering peace officers, as required by this section or sections 179A.04, 179A.20, and 179A.21, subdivision 3, to the extent those sections are consistent with this section.

(f) "Grievance procedure" has the meaning given in section 179A.20, subdivision 4, except as otherwise provided in this section or to the extent inconsistent with this section.

(g) "Peace officer" means a licensed peace officer or part-time peace officer subject to licensure under sections 626.84 to 626.863.

Subd. 2. Applicability. (a) Notwithstanding any contrary provision of law, home rule charter, ordinance, or resolution, the arbitrator selection procedure established under this section shall apply to all peace officer grievance arbitrations for written disciplinary action, discharge, or termination heard on or after the effective date.

(b) The grievance procedure for all collective bargaining agreements covering peace officers negotiated on or after the day following final enactment must include the arbitrator selection procedure established in this section.

(c) This section does not authorize arbitrators appointed under this section to hear arbitrations of public employees who are not peace officers.

Subd. 3. Fees. All fees charged by arbitrators under this section shall be in accordance with a schedule of fees established by the commissioner on an annual basis.

Subd. 4. Roster of arbitrators. The commissioner, in consultation with community and law enforcement stakeholders, shall appoint a roster of six persons suited and qualified by training and experience to act as arbitrators for peace officer grievance arbitrations under this section. In making these appointments, and as applicable, the commissioner may consider the factors set forth in Minnesota Rules, parts 5530.0600 and 5530.0700, subpart 6, as well as a candidate's familiarity with labor law, the grievance process, and the law enforcement profession; or experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences. The appointments are effective immediately upon filing with the secretary of state. Arbitrators on the roster created by this subdivision shall not serve as an arbitrator in a labor arbitration other than a grievance arbitration as defined in this section.

Subd. 5. Applications. The secretary of state shall solicit and accept applications in the same manner as for open appointments under section 15.0597.

Subd. 6. Terms. (a) Initial appointments to the roster of arbitrators shall be made as follows:

- (1) two appointments to expire on the first Monday in January 2023;
- (2) two appointments to expire on the first Monday in January 2024; and
- (3) two appointments to expire on the first Monday in January 2025.

(b) Subsequent appointments to the roster of arbitrators shall be for three-year terms to expire on the first Monday in January, with the terms of no more than two arbitrators to expire in the same year.

(c) An arbitrator may be re-appointed to the roster upon expiration of the arbitrator's term. If the arbitrator is not re-appointed, the arbitrator may continue to serve until a successor is appointed, but in no case later than July 1 of the year in which the arbitrator's term expires.

Subd. 7. Applicability of Minnesota Rules, chapter 5530. To the extent consistent with this section, the following provisions of Minnesota Rules apply to arbitrators on the roster of arbitrators established under this section:

- (1) Minnesota Rules, part 5530.0500 (status of arbitrators);
- (2) Minnesota Rules, part 5530.0800 (arbitrator conduct and standards); and
- (3) Minnesota Rules, part 5530.1000 (arbitration proceedings).

Subd. 8. Performance measures. To the extent applicable, the commissioner shall track the performance measures set forth in Minnesota Rules, part 5530.1200.

Subd. 9. Removal; vacancies. An arbitrator appointed to the roster of arbitrators may be removed from the roster only by the commissioner in accordance with the procedures set forth in Minnesota Rules, part 5530.1300. A vacancy on the roster caused by a removal, a resignation, or another reason shall be filled by the commissioner as necessary to fill the remainder of the arbitrator's term. A vacancy on the roster occurring with less than six months remaining in the arbitrator's term shall be filled for the existing term and the following three-year term.

Subd. 10. Training. (a) A person appointed to the arbitrator roster under this section must complete training as required by the commissioner during the person's appointment. At a minimum, an initial training must include:

- (1) at least six hours on the topics of cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and
- (2) at least six hours on topics related to the daily experience of peace officers, which may include ride-alongs with on-duty officers or other activities that provide exposure to the environments, choices, and judgments required of officers in the field.

The commissioner may adopt rules establishing training requirements consistent with this subdivision.

(b) An arbitrator appointed to the roster of arbitrators in 2020 must complete the required initial training by July 1, 2021. An arbitrator appointed to the roster of arbitrators after 2020 must complete the required initial training within six months of the arbitrator's appointment.

(c) All costs associated with the required training must be borne by the arbitrator.

Subd. 11. Selection of arbitrators. The commissioner shall assign or appoint an arbitrator or panel of arbitrators from the roster to a peace officer grievance arbitration under this section on rotation through the roster alphabetically ordered by last name. The parties shall not participate in, negotiate for, or agree to the selection of an arbitrator or arbitration panel under this section. The arbitrator or panel shall decide the grievance, and the decision is binding subject to the provisions of chapter 572B.

Subd. 12. Interaction with other laws. (a) Sections 179A.21, subdivision 2, and 572B.11, paragraph (a), and rules for arbitrator selection promulgated pursuant to section 179A.04 shall not apply to discipline-related grievance arbitrations involving peace officers governed under this section.

(b) Notwithstanding any contrary provision of law, home rule charter, ordinance, or resolution, peace officers, through their certified exclusive representatives, shall not have the right to negotiate for or agree to a collective bargaining agreement or a grievance arbitration selection procedure with their employers that is inconsistent with this section.

(c) The arbitrator selection procedure for peace officer grievance arbitrations established under this section supersedes any inconsistent provisions in chapter 179A or 572B or in Minnesota Rules, chapters 5500 to 5530 and 7315 to 7325. Other arbitration requirements in those chapters remain in full force and effect for peace officer grievance arbitrations, except as provided in this section or to the extent inconsistent with this section.

EFFECTIVE DATE. This section is effective September 1, 2020, except that subdivision 2, paragraph (b), is effective the day following final enactment.

Sec. 25. Laws 2019, First Special Session chapter 5, article 1, section 12, subdivision 7, is amended to read:

Subd. 7. Office of Justice Programs	40,147,000	40,082,000
	Appropriations by Fund	
General	40,051,000	39,986,000
State Government Special Revenue	96,000	96,000

(a) Base Adjustment

To account for the base adjustments provided in Laws 2018, chapter 211, article 21, section 1, paragraph (a), the general fund base is increased by \$2,000 in fiscal years 2022 and 2023.

(b) Administration Costs

Up to 2.5 percent of the grant funds appropriated in this subdivision may be used by the commissioner to administer the grant program.

(c) Indigenous Women Task Force

\$105,000 the first year and \$45,000 the second year are for expenses related to the task force on missing and murdered indigenous women. This appropriation is available until June 30, 2021. These are onetime appropriations.

(d) Domestic Abuse Prevention Grants

\$200,000 each year is for a grant to a domestic abuse prevention program that provides interdisciplinary, trauma-informed treatment and evidence-informed intervention for veterans and current or former service members and their whole families affected by domestic violence. The grantee must offer a combination of services for perpetrators of domestic violence and their families, including individual and group therapy, evaluation and research of programming, and short- and long-term case management services to ensure stabilization and increase in their overall mental health functioning and well-being. These appropriations are onetime.

(e) Criminal Sexual Conduct Statutory Reform Working Group

\$20,000 the first year and \$14,000 the second year are to convene, administer, and implement the criminal sexual conduct statutory reform working group. These appropriations are onetime.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 26. Laws 2019, First Special Session chapter 5, article 1, section 13, subdivision 4, is amended to read:

Subd. 4. Peace Officer Training Assistance

\$6,000,000 each year is to support and strengthen law enforcement training and implement best practices. The base for this activity is \$0 in fiscal year ~~2022~~ 2024 and thereafter.

Sec. 27. Laws 2019, First Special Session chapter 5, article 2, section 28, subdivision 4, is amended to read:

Subd. 4. Report. The task force shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over public safety, human services, and state government on the work of the task force, including but not limited to the issues to be examined in subdivision 1, and shall include in the report institutional policies and practices or proposed institutional policies and practices that are effective in reducing gender violence and increasing the safety of indigenous women and girls. The report shall include recommendations to reduce and end violence against indigenous women and girls and help victims and communities heal from gender violence and violence against indigenous women and girls. ~~The A~~ report shall be submitted to the legislative committees by December 15, 2020, and a final report shall be submitted by June 30, 2021.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 28. Laws 2019, First Special Session chapter 5, article 2, section 28, subdivision 5, is amended to read:

Subd. 5. **Expiration.** Notwithstanding Minnesota Statutes, section [15.059](#), the task force expires ~~December 31, 2020~~ June 30, 2021.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 29. **APPROPRIATION; BUREAU OF MEDIATION SERVICES.**

\$120,000 in fiscal year 2021 is appropriated from the general fund to the Bureau of Mediation Services for rulemaking, staffing, and other costs associated with peace officer grievance procedures. The base for this appropriation is \$47,000 in fiscal year 2022 and thereafter.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 30. **APPROPRIATION FOR INDEPENDENT USE OF FORCE INVESTIGATIONS UNIT IN BCA.**

\$3,365,000 in fiscal year 2021 is appropriated from the general fund to the commissioner of public safety to establish and operate the independent Use of Force Investigations Unit in the Bureau of Criminal Apprehension. The base for this appropriation is \$3,272,000 in fiscal years 2022 and 2023. The base for this appropriation is \$0 in fiscal year 2024.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 31. **APPROPRIATION; AUTISM TRAINING.**

\$8,000 is appropriated from the general fund to the Bureau of Criminal Apprehension for the fiscal year ending June 30, 2021, to implement autism training.

EFFECTIVE DATE. This section is effective August 1, 2020.

Sec. 32. **APPROPRIATION; DATABASE.**

\$3,500,000 in fiscal year 2021 is appropriated from the general fund to the Peace Officer Standards and Training Board to design, build, implement, and operate a database to receive the public data required to be submitted to the board by law enforcement agencies in Minnesota Statutes, section 626.8457, subdivision 3, paragraph (b). The base for this activity is \$500,000 in fiscal year 2022 and thereafter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 33. **APPROPRIATION; ENSURING POLICE EXCELLENCE AND IMPROVING COMMUNITY RELATIONS ADVISORY COUNCIL.**

\$23,000 in fiscal year 2021 is appropriated from the general fund to the Peace Officer Standards and Training Board for costs associated with providing office space, supplies, equipment, and clerical support to the Ensuring Police Excellence and Improving Community Relations Advisory Council. The base for this appropriation is \$20,000 in fiscal year 2022 and thereafter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 34. **APPROPRIATION; DATA SYSTEM STAFFING.**

\$96,000 in fiscal year 2021 is appropriated from the general fund to the Peace Officer Standards and Training Board for costs associated with staffing the database that receives the public data required to be submitted to the board by law enforcement agencies. The base for this appropriation is \$128,000 in fiscal year 2022 and thereafter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 35. **APPROPRIATION; PEACE OFFICER CRISIS INTERVENTION AND MENTAL ILLNESS CRISIS TRAINING.**

\$145,000 in fiscal year 2021 is appropriated from the general fund to the Peace Officer Standards and Training Board to reimburse law enforcement agency crisis intervention and mental illness crisis training expenses for training that is provided by approved entities according to Minnesota Statutes, section 626.8469, subdivision 1a. The base for this appropriation is \$137,000 in fiscal year 2022 and thereafter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 36. **REPEALER.**

Minnesota Statutes 2018, section 181.973, is repealed.

EFFECTIVE DATE. This section is effective the day following final enactment.

Presented to the governor July 21, 2020

Signed by the governor July 23, 2020, 11:11 a.m.

[Copyright ©](#) 2020 by the Revisor of Statutes, State of Minnesota. All rights reserved.

Second Special Session Yields Police Accountability Law but No Bonding or Tax Bills

July 21, 2020

The police accountability bill establishes an agency to investigate incidents of police use of force, restricts the use of police choke holds, expands cultural diversity training, and more.

The eight-day special session that began July 13 and ended in the early hours of July 21 focused extensively on advancing police reform measures. While a police accountability package was agreed upon and passed, other pressing issues, such as a long-awaited capital investment (bonding) bill and a tax bill, were left by the wayside.

Police reform front and center

In the wake of George Floyd's tragic death at the hands of police officers, making meaningful changes to laws governing police conduct, training, and oversight became a focal point of the first special session that ran from June 12 to June 20. At that time, proposals that emerged from the House and Senate did not align.

The House package was very comprehensive and included measures aimed at addressing systemic racism, while the Senate bills focused on police training, officer mental health, and reporting requirements.

During the second special session, leaders worked extensively to hammer out an agreement that would both produce meaningful reform and have the political backing to pass off the floors of both bodies. In the end, the package that emerged, [Second Special Session HF 1](#), authored by [Rep. Carlos Mariani](#) (DFL-St. Paul) and [Sen. Warren Limmer](#) (R-Maple Grove), is a balance of the House and Senate proposals.

The bill passed in the House on a vote of 102-29 and in the Senate on a vote of 60-7. Gov. Tim Walz is expected to sign it.

Provisions of the bill

The bill includes the following measures:

- Defines “public safety peer counseling” and “critical incident stress management” and protects information shared during peer counseling and critical incident stress management settings by classifying it as private data.
- Establishes the Independent Use of Force Investigations Unit within the Bureau of Criminal Apprehension (BCA).
- Allows cities and counties to offer incentives to encourage a person hired as a peace officer to be a resident of the city or county.
- Severely restricts the use of choke holds, tying all of a person's limbs together behind the person's back to render the person immobile, or securing a person in any way that results in transporting the person face down in a vehicle.

- Provides that the authority to use deadly force conferred on peace officers is critical responsibility that must be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life.
- Limits use of deadly force and prohibits use of deadly force against a person based on the danger the person poses to self.
- Requires the chief law enforcement officer to report each incident of law enforcement use of force resulting in serious bodily injury or death to the BCA.
- Increases the number of Peace Officer Standard and Training (POST) Board members from 15 to 17, with the two additional appointments being members of the public appointed by the governor (this increases the number of members of the public on the POST Board from two to four).
- Prohibits law enforcement agencies from providing or funding “warrior-style” training to peace officers and prohibits officers from receiving continuing education credits or tuition reimbursement for warrior-style training.
- Establishes the 15-member Ensuring Police Excellence and Improving Community Relations Advisory Council under the POST Board, whose purpose is to assist the board in maintaining policies and regulating peace officers in a manner that ensures the protection of civil and human rights.
- Requires the POST Board to develop a “duty-to-intercede” model policy mandating peace officers to intercede when present and observing another peace officer using force that is clearly beyond what is objectively reasonable (this provision also contains a duty to report the incident to a supervisor).
- Requires chief law enforcement officers to report investigation and disposition of cases involving alleged police misconduct, and creates a database for the reports.
- Expands peace officer training in cultural diversity, mental illness, crisis intervention, and autism.
- Modifies the arbitration for law enforcement grievances so the arbitrator would be chosen from a six-person rotation in alphabetical order, and neither the officer nor the employer could be involved in choosing the arbitrator.

Arbitration reform measure disappointing

The outcome on law enforcement arbitration reform was not what the League was working to accomplish.

The League sought inclusion of a measure that would reduce the standard of review in law enforcement grievances to a reasonable standard and also provide a process for appeals when a termination or serious discipline is overturned. Despite working with legislators on both sides of the aisle, the League’s preferred reforms were not included in the final package.

Unfinished business

The Legislature still has other issues that have not been addressed, including the following:

Bonding and taxes. The House and Senate failed to act on other major legislation, including a bonding bill, a tax bill, and a supplemental budget bill. As the special session began, a bonding

agreement by the House, Senate, and governor appeared to be close on the size of a package of capital projects, including many local projects across the state.

Also contained in the bill, [Second Special Session HF 3](#) (Rep. Mary Murphy, DFL-Hermantown), was a package of tax measures that included sales tax exemptions on construction material purchases for specific city projects and local government aid penalty forgiveness for the cities of Roosevelt and Sargeant.

However, with the super-majority requirement for passage of a bonding bill, the minority caucuses in the House and Senate understood they held sway over the content of the bonding bill but also over other priority issues, including the public safety reform bill and the governor's executive authority to respond to emergencies like the current pandemic.

Early on July 21, the House brought up the bonding/tax bill, but the bill failed to receive the 81 votes necessary for passage. The House and Senate subsequently adjourned the special session.

Housing. The House bonding bill included \$16 million in general obligation bonds for public housing preservation and rehabilitation, and \$100 million in housing infrastructure bonds (HIBs), which are appropriations bonds that can be used to help finance specific multifamily housing development.

HF 3 also included a provision to allow HIBs to be used for the construction of multifamily rental housing for households at or below 50% of area median income and prioritized deeper affordability.

The bonding bill also included an expansion of the Workforce and Affordable Homeownership Development program to allow for the provision of loans in addition to grants. Beginning in fiscal year (FY) 2022, the bill required \$4 million each year through FY 2031 to be captured from revenue derived from the mortgage registry and deed taxes to fund a new account within the Minnesota Housing Finance Agency that will support the program.

Broadband. An additional League priority that failed to be acted upon in the second special session was more funding to support distance learning and telemedicine in response to the COVID-19 pandemic. [HF 12](#) and [SF 9](#) included a supplemental appropriation of \$10 million from the state's share of the federal CARES Act Coronavirus Relief Fund to the Border-to-Border Broadband Development Grant program to deploy broadband infrastructure in unserved areas.

What's next?

There is a possibility that the governor will call a third special session in August, when the Legislature could again consider bonding and tax bills. Under state law, if the Legislature is not in session and the governor acts to extend the peacetime emergency beyond 30 days, the governor must call the Legislature into special session to provide legislators an opportunity to override the peacetime emergency.