INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JANUARY 27, 2014 - 8150 BARBARA AVENUE

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, January 27, 2014, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Bartholomew, Madden, Mueller and Piekarski Krech; City Administrator Lynch, Assistant City Administrator Teppen, City Attorney Kuntz, Public Works Director Thureen, Community Development Director Link, Finance Director Smith, Parks and Recreation Director Carlson, Chief Stanger, Chief Thill, and Deputy Clerk Kennedy

3. PRESENTATIONS:

Chief Stanger introduced the two (2) newest officers in the Police Department, Tyson Rainey and Eric Streff-Howe.

Officer Rainey graduated from Ridgewood College in Hutchinson, MN with an Associate's Degree in Law Enforcement. He completed his skills training through Alexandria Technical and Community College. He had previous police experience as an officer in Hutchinson and his official start date in Inver Grove Heights was September 16, 2013. He was recently released from the department's field training program and was officially out on solo patrol in the City.

Officer Streff-Howe graduated from St. Cloud State University with a Bachelor's Degree in Criminal Justice. He also completed his skills training through Alexandria Technical and Community College. He had previous police experience as an officer in Montgomery, MN. His official starting date was January 28, 2014 on which he would begin the department's field training process.

Chief Stanger recognized several officers who received awards of honor at the Dakota County Chiefs of Police Association awards ceremony in September of 2013. Officer Joe Boche along with former Inver Grove Heights (now Bloomington) Officer Chris Wegner received awards of honor for placing themselves in imminent danger as they talked down a suicidal male who was holding a firearm in January of 2012. Officers Joe Robertson and Eric Bohrer received awards of honor for risking their personal safety when they were fired upon while responding to a "shots fired" call from a citizen in March of 2012. In addition to their awards of honor each officer would also receive a commendation for their work.

Councilmember Madden stated the "shots fired" call was a very dangerous situation and he felt both officers' handled the situation very well to apprehend the individual quickly. He thanked the officers for their service.

Mayor Tourville welcomed the new officers to the City and thanked the officers who received awards.

Chief Thill three (3) of the six (6) new paid-on-call firefighter recruits who just started their training in the past month. She explained the department was fortunate enough to find six (6) individuals who already had either previous training or experience in firefighting, emergency medical services, or emergency management.

Anthony LaForte was an Inver Grove Heights Fire Explorer for four (4) years and completed firefighter training while serving in that capacity. Anthony's father is a retired member of the Inver Grove Heights Fire Department.

Evan Bohlman completed Emergency Medical Technician training. His father is a Firefighter Engineer for the city of Lakeville.

Jason Colvin is a certified Emergency Medical Technician. He also works with a private ambulance service responding to calls and serving as a Field Training Officer. His past experience includes emergency medical response and treatment as well as dispatch training.

Merrisa McLoughlin previously worked with the Inver Grove Heights Fire Department and completed firefighter training. She resigned in 2011 to return to school and concentrate on her studies. Since that time she completed paramedic training and received certification. She now works as a paramedic with a private ambulance company.

Brian Fier previously served as a paid-on-call firefighter in Iowa for seven (7) years. He is certified as both a firefighter and a paramedic. He completed his Bachelor's degree in emergency management.

Dejanira Arreola is a certified Emergency Medical Technician. She currently works for another fire department as an EMT and teaches first aid and CPR.

Mayor Tourville congratulated the new recruits and welcomed them to the City.

4. CONSENT AGENDA:

Citizen Allan Cederberg requested Item 4A(i) be removed from the Consent Agenda.

Councilmember Piekarski Krech removed Item 4A(ii) and Item 4C from the Consent Agenda.

B. Resolution No. 14-04 Approving Disbursements for Period Ending January 22, 2014

D. Approve Therapeutic Massage Licenses

E. Approve Adjustment to City Administrator Salary for 2014

F. Personnel Actions

Motion by Madden, second by Bartholomew, to approve the Consent Agenda

Ayes: 5
Nays: 0 Motion carried.

A. i) Minutes – December 16, 2013 Special City Council Meeting

Allan Cederberg, 1162 82nd St. E., opined that the document presented to the Council for approval was not official minutes of the meeting. He referenced Minnesota Statute 13D.05 and opined that the City Council, acting as the public body, should have prepared the minutes of the meeting, not the City Administrator. He asked that the Council void the document that was presented for approval.

The Council did not agree with Mr. Cederberg's contention.

Mayor Tourville stated a summary of the meeting was prepared and presented for approval of the Council. He explained the City Administrator put the summary together and distributed it to the Council for review and comment prior to the item being placed on the agenda.

Mr. Kuntz explained the statute referenced by Mr. Cederberg states at the regular meeting the public body shall summarize its conclusions regarding the evaluation. He stated the requirement could be fulfilled by the public body adopting the summary that was provided. He noted the intent of the statute was for the Council to adopt the summary regardless of who authored it.

Mr. Cederberg questioned what the conclusion of the review was.

Councilmember Piekarski Krech stated the conclusion was reflected in the summary.

Mayor Tourville stated no letter grade was given. The review included items that were good and identified areas for improvement. He noted Mr. Lynch was still the City Administrator.

Councilmember Bartholomew stated the summary was provided to the Council weeks in advance to provide the Council with an opportunity to change or correct them. He explained there was good discussion on weaknesses and strengths at the meeting and the City Administrator had a very good review. He noted the summary accurately reflected what was discussed.

Motion by Madden, second by Piekarski Krech, to approve the minutes of the December 16, 2013 Special City Council Meeting

Ayes: 5
Nays: 0 Motion carried.

A. ii) Minutes – January 13, 2014 Regular City Council Meeting

Councilmember Piekarski Krech stated she would abstain from voting because she was absent from the

meeting.

Motion by Madden, second by Mueller, to approve the minutes of the January 13, 2014 Regular City Council Meeting

Ayes: 4
Nays: 0
Abstain: 1 Motion carried.

C. 2014 Legislative Agenda

Councilmember Piekarski Krech stated she received several calls regarding the "Eminent Domain" item listed under "Legislative Initiatives". She explained people were concerned that the City was going to ask the Legislature to exercise eminent domain the way it used to be done. She opined the City needed to ensure that people's rights were preserved and that the process was equitable.

Mayor Tourville opined there was probably no chance for eminent domain to change in the State.

Motion by Madden, second by Bartholomew, to approve the 2014 Legislative Agenda

Ayes: 5
Nays: 0 Motion carried.

5. <u>PUBLIC COMMENT:</u>

6. <u>PUBLIC HEARINGS:</u>

A. CITY OF INVER GROVE HEIGHTS; Consider Resolution Ordering the Project, Approving Plans and Specifications, and Authorizing Advertisement for Bids for the 2014 Pavement Management Program, City Project No. 2014-09D, College Trail Reconstruction and Barbara Avenue Partial Reconstruction

Mayor Tourville explained staff recommended that the hearing be continued to the second meeting in February to respond to a request that notification of the project be sent to property owners in a larger area surrounding the proposed project. He noted an additional neighborhood informational meeting was also scheduled.

Mr. Thureen stated he received a call last Wednesday from an individual who expressed concern that a larger area of property owners should be notified of the proposed project. In accordance with legal notification requirements staff had already notified property owners adjacent to or who could potentially be affected by the project. There was a desire to have a larger area of residents notified to address questions and concerns related to the proposed sidewalk/trail. Staff suggested Council open the hearing, take testimony from those in attendance, and continue the hearing to February 24, 2014.

Councilmember Madden opined it was wise to expand the notification area because there was a lot of interest in the proposed project and it was important that the City hear from interested residents.

Allan Cederberg, 1162 82nd St. E., questioned why the City was not following the procedure outlined in Minnesota Statutes Chapter 429.

Mr. Kuntz explained the City was following the Chapter 429 process. An extensive feasibility report was prepared and formally received by the Council by resolution. At the same time the Council directed staff to prepare the notice of public hearing. The project was submitted to the Planning Commission for a determination that it is consistent with the Comprehensive Plan. The third step, the public improvement hearing, was to be held at this particular meeting and would be continued to the meeting on February 24th. The preliminary schedule indicated that if the Council ordered the project, bids would be received and not long after that step the Council would intend to hold the assessment hearing.

Mr. Cederberg questioned if the Council was aware of how much the City would have to contribute towards the project if it was approved.

The City Council responded in the affirmative.

Mr. Cederberg questioned why properties on the south side were not proposed to be assessed.

Mayor Tourville explained properties on the south side were not proposed to be assessed because the properties did not front the proposed street improvements.

Councilmember Piekarski Krech stated those properties did not have direct access.

Laurie Hansen, 8265 College Trail, questioned if the proposed drainage improvements were designed to collect in the pond behind Simley High School. She expressed concern with the quality of the water in the pond because it has deteriorated in the last several years.

Mr. Thureen stated staff could meet with the property owner to go through the plans and review the details.

Sindy Goodwill, 8271 College Trail, questioned if the Council would be in attendance at the next neighborhood meeting.

Mayor Tourville stated Council members do not typically attend neighborhood meetings.

Ms. Goodwill questioned how the Council would get feedback from residents on the project.

Councilmember Piekarski Krech explained staff provides the Council with summaries of the neighborhood meetings detailing who spoke and what their questions and comments were.

Kris Kellogg, 8275 College Trail, questioned how the project would impact school bus routes.

Mr. Thureen explained staff coordinated bus access with the school district to ensure service would not be interrupted during the school year.

Motion by Madden, second by Piekarski Krech, to continue the public hearing to February 24, 2014 at 7:00 pm

Ayes: 5
Nays: 0 Motion carried.

7. <u>REGULAR AGENDA:</u>

COMMUNITY DEVELOPMENT:

A. VINCE NONNEMACHER; Consider Resolution relating to a Variance to Construct a New Home on a Vacant Lot that does not meet the Minimum Lot Size Requirements for property located at 7929 Argenta Trail

Mr. Link reviewed the location of the property. The request was for a variance from minimum lot size requirements. He explained the property was currently vacant and the property owner would like to construct a new home. The lot is an existing lot of record and within the zoning district the minimum lot size is 3.5 acres. The property was just short of the minimum lot size at 3.45 acres. The lot was reduced in size when the County acquired right-of-way through the middle of the property, causing the lot to fall below the minimum lot size requirements. The plan included a stormwater pond on the western portion of the property and the driveway would be located on the western property line with access to Argenta Trail. Mr. Link explained because the difficulty was created by government action, the size of the variance was very small, the variance was needed for reasonable use of the property, and the plan met the standards for the Northwest Area, Planning staff recommended approval of the request. The Planning Commission also recommended approval of the variance.

Councilmember Piekarski Krech questioned if the property would be on a well and septic system.

Mr. Link responded in the affirmative.

Councilmember Madden questioned if the applicant was in agreement with the conditions of approval.

Vince Nonnemacher, 7929 Argenta Trail, responded in the affirmative.

Councilmember Piekarski Krech stated she was concerned by the fact that eventually the area would have City utilities and the home would be on a well and septic system. She questioned if a condition could be added that the property owner would agree to not contest any future assessments for the extension of

utilities into the area.

Mr. Kuntz stated the City should not impose such a condition because there was no benefit analysis for the property and it would be unfair to ask the property owner to give up his right to appeal an assessment without that information available.

Motion by Madden, second by Mueller, to adopt Resolution No. 14-05 approving a Variance to construct a new home on a Vacant Lot that does not meet the minimum lot size requirements for property located at 7929 Argenta Trail

Ayes: 4
Nays: 1 (Piekarski Krech) Motion carried.

B. MARY T'KACH; Consider Resolution relating to a Variance to allow a 42 inch high solid fence within the front yard setback whereas code requires minimum 75% clear visibility on front yard fences for property located at 1987 80th Street

Mr. Link reviewed the location of the property. The property owner's previous variance requests were denied and a revised proposal was submitted for Council's consideration. The proposed fence complied with setback and height requirements. The request was for a solid fence in the front yard. City Code requires front yard fences to be 75% clear, primarily for public safety reasons. The applicant would like to have a solid fence to mitigate the light from the community center across the street and noise from the traffic along 80th Street. The fence would be outside of sight lines along 80th Street and the visibility leaving the residence would not be impaired. Planning staff was concerned that this would be the only solid fence in a front yard in the neighborhood. He noted precedent was also a concern because there were many instances throughout the City in which homes were located across the street from churches, schools, or businesses that generate both noise and light that could negatively impact a neighborhood. Planning staff also found the request to be a matter of convenience rather than necessity as the fence is not needed for reasonable use of the property. Both Planning staff and the Planning Commission recommended denial of the request.

Mary T'Kach, 7848 Babcock Trail, stated the difficulty was created when the County took 32 feet from the front yard of the property. She opined if that had not occurred the variance would not be required.

Mayor Tourville clarified whether or not the County took frontage from the property the issue was the 75% clear visibility requirement for the fence was not met in the proposal that was submitted.

Ms. T'Kach stated the last time she presented the request there were a lot of suggestions as to how to soften the design and reduce the height of the fence. She opined that her revised proposal considered those suggestions and reflected a 42" high fence set on a berm that would be landscaped on the street side. She referenced the minutes from the Council meeting on September 10, 2012 in which a variance was granted for a solid fence that would encroach onto the front yard of a property located on Cooper Avenue. She explained the Council cited reasons for approval of the variance including security and screening of the property. She stated none of her neighbors opposed the request.

Mayor Tourville stated they were back to the issue of setting a precedent for allowing a solid fence in the front yard. He clarified that the request referenced for the property along Cooper Avenue was not a similar circumstance because the property was a corner lot. He explained a practical difficulty had to be identified to grant the variance.

Councilmember Mueller questioned what was meant by the term solid.

Councilmember Piekarski Krech stated it related to the ability to see through the fence based on the materials that were used to construct it. She explained a wood fence would be solid compared to a chain link fence.

Councilmember Madden stated the issue was the opaqueness of the fence.

Councilmember Mueller questioned why the hardship could not be the light and noise from the community center and the traffic along 80th Street.

Mayor Tourville stated the difficulty would be distinguishing between this application and future applications from property owners who want solid fences in their front yards. The issue was setting a precedent for how future requests would be handled.

Ms. T'Kach opined there were not many people seeking a variance for a 42-inch high fence.

Galena Schirmer, 1987 80th St. E., stated she lived at the residence with her two (2) small children. She opined the difference between being across from the community center and a business or a church was that the noise, traffic, and light were a constant presence almost 24 hours a day.

Mayor Tourville stated everyone understood the concerns. He questioned if a variance would be needed if a fence that met the clear visibility requirement was constructed and landscaping was also used to further buffer the property from noise and light.

Mr. Link stated if it was not a solid fence and met the code requirement for clearness a variance would not be required. He noted landscaping would not require a variance either.

Councilmember Piekarski Krech questioned if a picket fence would meet the requirement.

Mr. Link stated it was not likely that a picket fence would work because ordinance requires the fence to be 75% clear.

Ms. T'Kach stated a picket fence would not mitigate the noise. She explained if the County had not taken 32 feet from her property she would be able to put up a 42 inch high fence without the variance because she would be able to meet the setback requirements.

Mr. Link confirmed the restriction on the solid fence was only in the 30 feet from the right-of-way back onto the property. He explained a house that was setback 60 feet could build a solid fence at the 30 foot setback. He noted the stipulation only applied to that distance within 30 feet of the right-of-way. He stated the purpose of the regulation was two-fold. The first was for aesthetics and design to maintain a certain appearance or attractiveness as you drive down the street. The second was for public safety to ensure there are no obstructions that would block drivers' visibility.

Mayor Tourville clarified the applicant could construct the solid fence 31 feet from the right-of-way.

Mr. Link responded in the affirmative. He stated the house was setback 33 feet from the right-of-way. The applicant could put up a solid fence 3 feet in front of the house without a variance.

Ms. T'Kach stated her proposal was to build the fence 15 feet from the right-of-way so she would be 15 feet shy of meeting the setback requirement. She reiterated if the County had not taken the additional 32 feet from her property she would have had 47 feet to work with and would not need a variance for the fence.

Councilmember Piekarski Krech stated if the only issue was related to the 30 foot setback requirement she would be more amenable to considering the request because she could not imagine many other people would want to construct a solid fence that close to their home.

Mayor Tourville stated he was still concerned about setting a precedent for future requests.

Councilmember Mueller questioned if the applicant would consider building the fence 20 feet from the right-of-way.

Ms. T'Kach stated that would be better than not being allowed to construct the fence.

Mayor Tourville explained the Council needs to determine if they want to allow solid fences in the front yard.

Councilmember Piekarski Krech stated the question was does the City want solid fences less than 30 feet from the property line. She noted the City would already allow a solid fence to be constructed at 30 feet.

Mayor Tourville suggested tabling the item to see if something could be worked out. He stated it may be easier if the applicant could provide some information to show what the fence would look like at 15 feet and at 20 feet.

Motion by Tourville, second by Mueller, to table consideration of the variance request to March 10, 2014

Ayes: 5
Nays: 0 Motion carried.

PARKS AND RECREATION:

C. CITY OF INVER GROVE HEIGHTS; Consider First Reading of an Ordinance Amendment to Title 11 Chapter 4 of the City Code (Subdivision Regulations) relating to Updating Park Dedication Rates

Mr. Carlson explained in 2012 the State Legislature changed some of the park dedication statutes and the proposed ordinance amendment was an effort to ensure that the City's regulations complied with those set forth in statute. Slight revisions were proposed with respect to land dedication. With respect to cash dedication the City would generally see a decrease in the amount of cash it would receive if that was requested of the developer at the time of final plat. He noted the cash values were tied to land values. The reduction in land values that had been experienced since 2007 precipitated the proposed reductions in cash dedication. A resolution was drafted that identified the formula that was used to calculate the fees.

Councilmember Bartholomew stated the cash dedication for the R-3C15 unit was based on the number of units.

Mr. Carlson replied in the affirmative. He explained if a developer comes in and the City does not want to receive a land dedication the amount of the cash dedication would be based on the number of units.

Councilmember Piekarski Krech questioned if the 15 units was just an example.

Mr. Carlson stated that would be the density per acre in a R-3C development.

Councilmember Piekarski Krech questioned how the proposed fees compared with those of other cities.

Mr. Carlson stated the cash dedication correlated to the value of the land and was not necessarily meant to be comparable to other cities.

Councilmember Piekarski Krech stated land values within the City varied greatly.

Mr. Carlson stated in their analysis staff had to make a judgment call and provide a justification for the fees that were set forth. He explained State statute dictated what the park dedication formulas could be.

Councilmember Piekarski Krech stated the City had been criticized in the past because the park dedication fees were so much higher than other communities.

Mayor Tourville suggested that staff could put together information on park dedication fees in surrounding cities for the second reading.

Councilmember Piekarski Krech stated the information should go out to the business community and the Chamber of Commerce.

Motion by Mueller, second by Bartholomew, to adopt First Reading of an Ordinance Amendment to Title 11, Chapter 4 of the City Code (Subdivision Regulations) relating to Updating Park Dedication Rates

Ayes: 5
Nays: 0 Motion carried.

FINANCE:

D. CITY OF INVER GROVE HEIGHTS; Approve Carryover of Public Safety Contributions and Donations Received but Unspent to the 2014 Budget

Ms. Smith stated in prior years the list of donations and contributions were received totaling $76,792.38. The funds would be used for one-time purchases that would not require ongoing maintenance. She

reviewed some of the items that would be purchased for use in the Police and Fire departments.

Motion by Madden, second by Piekarski Krech, to adopt Resolution No. 14-06 approving carryover of Public Safety contributions and donations received but unspent to the 2014 budget

Ayes: 5
Nays: 0 Motion carried.

ADMINISTRATION:

E. CITY OF INVER GROVE HEIGHTS; Consider Third Reading of an Ordinance Amending Inver Grove Heights City Code Title 4, Chapter 1, Articles A, B, C, and D related to Alcoholic Beverages

Mr. Kuntz stated no changes had been made to the proposed ordinance amendment since the second reading.

Ms. Kennedy stated all liquor license holders were notified of the proposed changes and invited to an informational meeting that was held at City Hall. Feedback was received from three (3) license holders and the majority of the questions were general in nature and were addressed by staff. She noted several comments related to the current fee structure and advised the Council that fees were set annually by separate resolution and were not affected by the proposed ordinance amendments.

Motion by Madden, second by Mueller, to adopt Ordinance No. 1276 amending Inver Grove Heights City Code Title 4, Chapter 1, Articles A, B, C, and D related to Alcoholic Beverages

Ayes: 5
Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

9. EXECUTIVE SESSION:

A. Update on Property Acquisitions

Mr. Kuntz stated the statute that allowed the Council to meet in closed session was Minnesota Statute 13D.05 subd. 3(c). The properties to be discussed were: 4343 65th Street, 6140 Doffing Avenue, 6455 Doffing Avenue, 6845 Dixie Avenue, 6836 Dickman Trail, the River Country Cooperative property, 6639 Concord Boulevard, Dakota County CDA property generally located on the 6300 block of Concord Street, and the Gun Club property.

10. ADJOURN: Motion by Mueller, second by Bartholomew, to adjourn. The meeting was adjourned by a unanimous vote at 9:45 p.m.