

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JULY 14, 2014 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, July 14, 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, City Attorney Kuntz, Public Works Director Thureen, Community Development Director Link, Finance Director Smith, Parks and Recreation Director Carlson, Chief Stanger, and Deputy Clerk Kennedy

3. PRESENTATIONS: None.

4. CONSENT AGENDA:

Mayor Tourville removed Item 4F from the Consent Agenda.

Councilmember Bartholomew removed Item 4H from the Consent Agenda.

- A.** Minutes – June 23, 2014 Regular City Council Meeting
- B. Resolution No. 14-99** Approving Disbursements for Period Ending July 9, 2014
- C. Resolution No. 14-100** Making an Election Not to Waive the Statutory Tort Limits for Liability Insurance Purposes
- D.** Pay Voucher No. 10 for City Project No. 2006-08, Asher Water Tower Replacement
- E.** Approve Easement Encroachment Agreement for Landowner Improvements within City Easement for Property Located at 7562 Alpine Court (Lot 2, Block 3, Argenta Hills 3rd Addition)
- G.** Authorize Distribution of the Draft Third Generation Inver Grove Heights' Water Resources Management Plan (WRMP)
- I.** Approve Massage Therapist License
- J. Resolution No. 14-101** Appointing Election Judges for the 2014 Primary and General Elections

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

Ayes: 5

Nays: 0 Motion carried.

F. Resolution Accepting Emmons & Olivier Resources, Inc. (EOR) Proposals for General Engineering Services to Assist with Development Reviews – Water Resources

Mayor Tourville stated the item would be tabled. He clarified that the process would continue to move forward but the dollar amount would be further discussed.

Mr. Lynch stated it was not staff's intent to stop the application process. He explained staff would like to meet with the prospective consultant to decide what could be done to meet the current standards outlined in the City's ordinances and storm water design guidelines. He noted staff also wanted to meet with the developer to discuss a more reasonable escrow amount.

Councilmember Mueller stated he had concerns about the cost of the proposal. He suggested obtaining three (3) additional proposals for the work to see if a more competitive price could be obtained.

Councilmember Bartholomew stated he wanted to ensure that the process would not be slowed down if the item was tabled.

Mayor Tourville questioned if staff could put together a scope of work to be completed and obtain additional proposals for a cost comparison. He stated the developers commented that the process and prices were not competitive because a proposal was only obtained from one consultant.

Mr. Thureen explained the consulting firm that supplied the proposal outlined a price range for each of the three (3) plats that would need to be reviewed. The price range was based on both staff's and the consultant's experience with other developments that have already taken place in the Northwest Area. He noted there was an entirely different design process for the Northwest Area than for development in any other area of the City and virtually anywhere else in the metro area due to the landlocked design of the storm water management system. He stated the City spent a fair amount of time and effort into developing the design manual specifically for the Northwest Area to ensure that the system would be sustainable for the long-term. He explained while there were a handful of consultants he would feel comfortable with, Emmons & Olivier Resources was the only consultant that knew the manual well. He stated the cost estimate was primarily a function of the effort that the developer's consultant put into the project. He explained storm water was the foundation for the overall design for the Northwest Area and the manual clearly laid out the steps for how to approach the design of a development in the Northwest Area. If those steps were not followed by a developer the cost could increase further.

Mayor Tourville stated Emmons & Olivier Resources should know the storm water design manual well because that was the consulting firm that put it together. He opined that the proposal seemed a little overpriced considering the level of expertise the firm should already have with respect to the manual.

Mr. Thureen reiterated the storm water system in the Northwest Area required a very difficult and intricate design.

Mayor Tourville questioned how long it would delay the process to put together a scope of work to seek additional proposals.

Mr. Thureen stated staff could seek proposals from other firms. He explained the scope of work would be fairly simply because the consultant was being asked to review the development proposals using the City's storm water manual. He noted the unknown would be the amount of time each consultant factored into learning the contents of the manual to be competent enough to use it.

Councilmember Piekarski Krech stated that was why the number of hours included in the proposal from Emmons & Olivier Resources came as a shock. She opined if that firm wrote the manual it should not take their consulting staff that long to determine whether or not the development proposals meet the criteria and standards. She questioned what the review cost for the Argenta Hills development.

Mr. Thureen stated the cost information was being compiled for all other developments that had taken place in the Northwest Area to date.

Mayor Tourville stated it may put everyone's mind at ease to get proposals from other firms to do a cost comparison.

Councilmember Bartholomew stated the estimated number of hours contained in the proposal seemed extraordinary to him considering the consulting firm wrote the storm water manual. He questioned if the estimated number of hours was based on the consultant's opinion that the developer's engineer did not know what they were doing.

Mr. Thureen stated the consultant estimated a conservative number of hours for the work based on their experience of going through the process with other developments in the Northwest Area and specifically what they have seen to date from this particular developer and his engineer. He explained staff does monitor the whole process very closely to ensure that the consultant is making efficient use of their time. He noted the hourly rates for the other firms he would feel comfortable working with would be very similar.

Mr. Lynch clarified that seeking additional proposals would delay the process because review of the development design for each of the three (3) plats would be delayed. He proposed moving forward with a phased approach similar to what was used for the installation of utilities. Staff would meet with the consulting firm to determine the number of hours that would be required to begin the review for the first phase of the development. This would allow the process to continue to move forward at a lower initial

cost. He opined that the number of hours required to review subsequent phases of the development would be reduced because the consultant would have experience working with the developer and his principal engineer.

Mayor Tourville stated the City already paid a great deal of money for the storm water manual. He opined he did not want to delay the application process further, but he also did not want to be abused by the consultant either. He reiterated the projected number of hours was too high.

Councilmember Mueller questioned if the hourly rates of other firms would be similar.

Mr. Thureen responded in the affirmative. He stated the hourly rate was a function of the staff that would be involved in the review process. He explained in the end it is all about coming up with a design that will meet the performance standards for the Northwest Area otherwise the system will not function properly over time.

Councilmember Mueller stated he was disappointed with the proposal from the consultant.

Mayor Tourville opined the proposal was put together with the knowledge that the City was not going to obtain any other competitive proposals for the work. He stated they should already have an understanding of the storm water manual because they have reviewed other developments in the Northwest Area.

Councilmember Piekarski Krech stated the number of hours should be more competitive. She suggested moving forward with the first phase of the work and putting together a RFP for review of the subsequent phases of the development.

Motion by Piekarski Krech, second by Bartholomew, to table consideration of the resolution accepting proposals from Emmons & Olivier Resources (EOR) for general engineering services to assist with development reviews and to proceed, on an hourly basis, with review of phase one of the proposed development and to direct staff to develop an RFP for review of subsequent phases

Ayes: 5

Nays: 0 Motion carried.

H. Approve Mid-Decade Analysis of Population Contract

Councilmember Bartholomew questioned if the City was permitted to use the proposed funding source for this purpose.

Mr. Carlson stated the use was considered to be for the development of the parks and recreation system and qualified to be funded via Fund 402.

Mr. Kuntz stated if the Parks and Recreation Director found that the proposed use was going to form the basis for a capital improvement or capital development plan for the parks system there was enough of a nexus to use Fund 402.

Councilmember Bartholomew opined that park acquisition differed from park improvement or capital improvement.

Councilmember Mueller suggested that the school districts and County could provide a lot of the information that is being sought.

Mr. Carlson explained the proposed consultant had already contacted the school districts and found they were willing to participate and provide data for the study. He stated the consultant would pull data from a number of different sources. He noted if the school districts were not willing to participate it likely would have cost the City more money.

Motion by Bartholomew, second by Piekarski Krech, to approve Mid-Decade Analysis of Population Contract

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

Steve Schmidt, owner of property located at the northwest corner of Argenta Trail and T.H. 55, thanked the City for continuing to move the project along. He reminded the Council that three (3) issues were previously discussed, two (2) of which had not yet been addressed. He stated the issues related to the Peltier property still had to be addressed in order for the project to continue to move forward. He added that the City would also have to make a decision sooner than later with respect to the extension of utilities to the project area. He opined that the City's storm water management, open space, and density requirements limited what could go on the property and minimized the potential tax base that could be generated. He stated the financial feasibility study had not yet been completed. He asked the Council to emphasize the importance of staff continuing to work with the developer to keep the project moving forward and to maintain flexibility with respect to all of the requirements in place for the development.

6. PUBLIC HEARINGS: None.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. WATRUD PROPERTIES: Consider the following requests for property located on the east side of Clark Road, between 10900 and 11098 Clark Road:

- i) Ordinance relating to a Zoning Code Amendment to Allow Office/Warehouse as a Conditional Use in the I-2, General Industry District
- ii) Resolution relating to a Conditional Use Permit to Allow an Office/Warehouse Building in the I-2 District
- iii) Resolution relating to a Conditional Use Permit to Allow a Contractor's Yard and Outdoor Storage for Items such as Landscaping Materials, Vehicles, and Equipment relating to a Business and Saleable Product
- iv) Resolution relating to a Variance from Outdoor Storage Requirements in the I-2 District to Allow Outdoor Storage to Encroach into the required 100 Foot Buffer along Property Zoned A, Agricultural and Not be Required to Install Solid Screen Fencing

Mr. Link reviewed the location of the property. He explained the applicant would like to construct a 26,000 square foot office/warehouse building with a contractor's yard and outdoor storage. The I-2 zoning district requirements did not currently allow the office/warehouse use. The first part of the request was for an amendment to the zoning code in order to allow the proposed use. The second part of the request was for two (2) conditional use permits to allow the proposed use and a contractor's yard with outdoor storage. The request was unique in that the proposed facility would be a multi-tenant building and the applicant did not know who would be occupying the space. He explained the applicant did not want to come back to the City for separate approvals each time a new tenant rented space in the building and wanted flexibility with respect to the uses that would be allowed on the property. He noted the applicant would like to allow metal storage containers on the property, similar to what is allowed on a neighboring property. Planning staff felt that if the applicant rented space to a tenant who wanted to keep metal storage containers on the property an interim use permit would be required. He stated the two (2) variance requests related to the neighboring residential properties. Ordinance required outdoor storage to be setback at least 100 feet from the neighboring property zoned A, Agricultural. The applicant requested a 40 foot setback. Ordinance also required a solid wood fence to screen the neighboring residential properties. The applicant requested that he not be required to install solid fencing. Planning staff supported both variance requests. The Planning Commission recommended approval of all the requests with the added condition that metal storage containers be permitted if they were a part of a renter's business.

Councilmember Madden added that there was no need for a solid fence because the neighboring properties were at a higher elevation and a fence would provide no screening.

Councilmember Piekarski Krech stated she would not have a problem with allowing metal storage containers as long as they were a part of a tenant's business. She noted she did not want to see the containers stored on the property for personal use.

Councilmember Bartholomew questioned how the neighboring property where metal storage containers were currently allowed was zoned.

Mr. Link stated the property was zoned B-3.

Councilmember Bartholomew clarified the applicant could store trailers on the property.

Mr. Link replied in the affirmative. He stated the Planning Commission made a similar observation.

Councilmember Piekarski Krech noted the storage facility located on a neighboring property was an interim use.

Councilmember Bartholomew questioned why the office/warehouse use could not be considered a permitted use in the I-2 zoning district.

Mr. Link explained staff simply reflected the I-1 regulations. He noted the Council could classify the use as permitted in the I-2 district.

Mayor Tourville questioned if the neighbors submitted any comments.

Mr. Link stated the neighbors were notified and one appeared at the Planning Commission meeting with questions regarding hours of operation for the facility.

Steve Watrud, applicant, explained he did not want to be required to come to the City every time he has a new tenant. He stated the question of metal storage containers was not related to the prospect of renting them. He explained he wanted the flexibility to accommodate a tenant's business needs. He noted it was not his intent to rent metal storage containers. He asked the City to make a decision with respect to what uses would be allowed in the I-2 district. He opined that the I-2 district was meant for the heaviest industrial use in the City and it should have the broadest scope. He clarified that in recent discussions with staff the idea was to eliminate the fencing requirement on the east side of the property because the topography was such that there would be no need for a fence.

Councilmember Mueller clarified the applicant did not want to install a fence of any kind on the east side of the property.

Mr. Watrud replied in the affirmative.

Mayor Tourville questioned if staff supported the request to forego fencing on the east side of the property.

Mr. Kuntz stated the resolution approving the variance requests contained language which indicated that the property owner would not be required to install solid screen fencing on the east side of the property.

Councilmember Piekarski Krech stated that could be interpreted to mean that fencing was still required, it simply did not have to be solid.

Mayor Tourville stated the applicant did not want to put up any type of fence.

Mr. Link explained staff's understanding was that the variance was to allow a chain link fence rather than a solid screen fence.

Councilmember Piekarski Krech questioned if the solid screen fencing was required because the property was located next to residential property.

Mr. Link replied in the affirmative. He explained the intent was primarily to provide screening for the residential properties.

Councilmember Piekarski Krech questioned if fencing was required for I-2 property that was not located next to a residential property.

Mr. Link stated there would not be a requirement for a solid fence.

Mr. Watrud stated in this particular situation, with outside storage, a fence would typically be needed for security. He explained they would have a fence on the front and side of the property but the incline was such on the east side that nobody would be able to access the property.

Councilmember Madden stated if the applicant did not need a fence he should not be required to put one up.

Councilmember Bartholomew questioned if it had been determined whether or not fencing was a requirement for I-2 property.

Mr. Lynch stated City Code section 10-15-9 required screening of the property.

Councilmember Piekarski Krech suggested the Council could grant a variance from the screening requirement for the east side of the property. She added she did not see a downside to making the office/warehouse use permitted in the I-2 zoning district.

Councilmember Mueller clarified that the setback requirements would be eliminated at such time that the neighboring residential properties no longer existed.

Mr. Link stated the setback requirements would change in the future if the neighboring properties were rezoned.

Mr. Kuntz stated if Council's intent was to allow metal storage containers language should be added to the resolution to reflect that they were allowed as part of the conditional use permit.

Councilmember Bartholomew stated if the use was permitted the applicant would not need both conditional use permits.

Mr. Link stated the conditional use permit for the contractor's yard with outdoor storage would still be required, along with both variances.

Motion by Piekarski Krech, second by Bartholomew, to adopt Ordinance No. 1280 amending the zoning code to allow Office/Warehouse as a Permitted Use in the I-2, General Industry District and to waive the requirement for three readings of the ordinance

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech, second by Mueller, to adopt Resolution No. 14-102 approving a Conditional Use Permit to allow a Contractor's Yard and Outdoor Storage for Items such as Landscaping Materials, Vehicles, and Equipment relating to a Business and Saleable Product with the addition of Condition #9 to allow Metal Storage Containers and Trailers

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech, second by Bartholomew, to adopt Resolution No. 14-103 approving a Variance from Outdoor Storage Requirements in the I-2 District to Allow Outdoor Storage to Encroach into the required 100 Foot Buffer along Property Zoned A, Agricultural and Not be Required to Install Screening on the East Side of the Property

Ayes: 5

Nays: 0 Motion carried.

B. CITY OF INVER GROVE HEIGHTS: Discuss Variance Requests Over the Last Five (5) Years to Identify any Patterns that may Warrant Changes to the Zoning Ordinance

Mr. Lynch explained Council received an inquiry related to patterns in variance requests.

Mr. Link stated staff reviewed variance requests that were presented to the Council over the last five (5) years. The most common type of variance request, dealt with approximately once per quarter, related to front yard setbacks. He noted they related to a variety of structures and there was not any one situation that particularly stood out. The second most common type of variance, seen approximately three (3) times per year, related to accessory structures. In the past when particular types of variances had been dealt with repeatedly ordinance amendments were suggested. At this time staff did not feel that any ordinance amendments were warranted. Staff did recommend a minor change related to conditional use permits for steel siding.

No action was taken on this item.

8. MAYOR & COUNCIL COMMENTS:

Mayor Tourville stated he received calls from residents with concerns about various rental properties in disrepair. The complainants understanding was that the City could not do anything to address the issues because current ordinances did not allow for further action to be taken. He asked staff to look into the issues to see if they could be addressed within the rental ordinance.

Mr. Lynch stated to some extent there was an expectation from residents that the City should go on to private property and remove items from that property. He clarified the City did not have the authority to remove property from private property. He noted the City also did not have the authority to remove vehicles from private property. He stated staff is trying to work with the neighborhood to explain the regulations in place that can be enforced and to establish a neighborhood watch program.

9. ADJOURN: Motion by Madden, second by Bartholomew, to adjourn. The meeting was adjourned by a unanimous vote at 8:40 p.m.