

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, SEPTEMBER 8, 2014 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, September 8, 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, Community Development Director Link, Finance Director Smith, Chief Stanger, Chief Thill, Public Works Director Thureen, and Deputy Clerk Kennedy

3. PRESENTATIONS: None.

4. CONSENT AGENDA:

Councilmember Mueller removed Item 4F from the Consent Agenda

- A. Minutes – August 25, 2014 Regular City Council Meeting
- B. **Resolution No. 14-136** Approving Disbursements for Period Ending September 3, 2014
- C. Final Pay Voucher No. 4, Final Compensating Change Order No. 2, Engineer's Report of Acceptance and **Resolution No. 14-137** Accepting Work for City Project No. 2012-07, Bohrer Pond NW Pre-Treatment Basin
- D. Approve Custom Grading, Drainage and Utility Easement, and Easement Encroachment Agreements for a New Home to be Built at 4892 Boyd Avenue
- E. **Resolution No. 14-138** Approving Joint Powers Agreement (JPA) with Dakota County for the Preliminary Engineering and Final Design for City Project No. 2014-11, Argenta Trail at Trunk Highway 55
- G. Temporary Liquor License Request – Church of St. Patrick
- H. Personnel Actions

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

Ayes: 5

Nays: 0 Motion carried.

F. Resolution Receiving Professional Services Proposals and Accepting Proposal from Kimley-Horn and Associates, Inc. for City Project No. 2014-11, Argenta Trail at Trunk Highway 55

Councilmember Mueller expressed concerns about the cost differential between the proposals. He stated two (2) of the proposals were very similar in cost and the third proposal was significantly less. He questioned if staff had worked with SRF, Inc. on previous projects.

Mr. Thureen stated the City had previously contracted with each of the firms that submitted a proposal. He opined in this instance one of the firms failed to capture the full scope of the work being requested and that was why their proposal was significantly lower in terms of cost than the other firms. He explained their proposal underestimated the number of hours that would be required to complete key components of the project. He noted Kimley Horn's proposal had a typo and was \$2,000 more than what was listed in the item. He stated the total cost would be \$236,895 and the City would be responsible for 45% of the cost.

Councilmember Piekarski Krech questioned how much Bolton & Menk's proposal was for.

Mr. Thureen stated the total cost of Bolton & Menk's proposal was \$248,500. He explained both County and City staff felt comfortable moving forward with the proposal from Kimley Horn.

Motion by Mueller, second by Madden, to adopt Resolution No. 14-139 Receiving Professional Service Proposals and Accepting Proposal from Kimley-Horn and Associates, Inc. for City Project No. 2014-11, Argenta Trail at Trunk Highway 55

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

Matthew Harmoning, 7618 Addisen Path, expressed concern regarding a sidewalk that ran in front of his home and his neighbor's home. He stated the sidewalk spanned the length of both homes and terminated at private property. He explained he understood that there was an ordinance in place for the Northwest Area which required a sidewalk one side of every street. He argued that there were other areas within the same development where there was no sidewalk on either side of the street. He questioned the ordinance requirements were not applied in a uniform manner. He opined that he and his neighbor had to bear the burden of having a sidewalk in their front yard when it did not seem to be required in other parts of the same development. He explained the homes on the same side of Addisen Path that were located across 76th Street did not have a sidewalk.

Mayor Tourville suggested that Mr. Harmoning meet with staff to further discuss and clarify the ordinance requirements for the Northwest Area.

Mr. Link stated there was one anomaly in the development in which there was not a sidewalk on at least one side of the street.

Mr. Carlson reviewed the neighborhood meetings scheduled for Saturday, October 4th at various parks throughout the City to discuss the future of the parks system. The purpose of the meetings was to provide residents with information about the parks system, provide an opportunity for residents to ask questions, and provide residents with an opportunity to provide opinions about what they want in a park, trail, and recreation system. He noted additional information was available on the City's website.

Mayor Tourville advertised for the Harmon Farms Trail Run on Sunday, September 14th at Harmon Park Reserve.

6. PUBLIC HEARINGS: None.

7. REGULAR AGENDA:**COMMUNITY DEVELOPMENT:**

A. THOMAS LEACH: Consider Resolution relating to a Variance to allow Parking with a Zero Foot Setback on the property located at 6426 Cahill Avenue, 6399 Cahill Avenue, and 3095 65th Street

Mr. Link reviewed the location of the property. The request was for a variance from side yard setbacks. The applicant installed five (5) parking spaces on two separate locations of his property. The property lines were not verified and the City was not contacted to check on the setback requirements. The parking spaces extended over two adjacent neighboring properties. The City became aware of the issue upon receiving a complaint. City Code required a setback of five (5) feet from the property line to the parking stalls. Because the parking stalls extended across the property line the setback requirements had not been met. By statute the City would have to identify a practical difficulty in order to grant the variance. A practical difficulty meant that the problem could not be caused by the property owner and it had to be unique in some manner so as not to set a harmful precedent. The variance would be justified if it took away some reasonable use of the property or if it was the only option available. In this case staff found that there were other options for parking besides where the spaces were installed. Planning staff recommended denial of the variance. The Planning Commission also recommended denial on a split vote (4-3).

Tom Leach, 6760 Arkansas Avenue, stated the parking area was somewhat landlocked due to steep topography. He explained he bought the property to the east of the main lot from the car wash. At one point in time he owned the property where five (5) of the stalls were located. He noted when he sold the car wash he also had to sell 20 feet of property from the end of the car wash to the north. He opined it was very important for the tenants of the building that the ten (10) parking stalls in question remained as is.

Councilmember Bartholomew questioned if Mr. Leach had an agreement with the respective landowners to allow him to use the parking stalls.

Mr. Leach replied in the affirmative.

Councilmember Bartholomew questioned if the variance was necessary when the parties involved have an agreement in place to allow the property to continue to be used for parking. He suggested it could be considered a lease of the property and the boundaries could be moved to conform to the setback requirements. He stated Mr. Leach would essentially be leasing or renting the property with an easement over the areas with the parking stalls.

Mr. Link stated that would be a City Council interpretation of the issue. He noted a variance would still be necessary.

Mr. Kuntz explained if the adjoining property owner consented, leased, or granted a license for use of the property it could be a consideration of the variance. He stated a lease could not be used to eliminate all City setback areas. He noted it was not a question of whether or not the applicant had permission to be in the setback area. He explained the property owner's consent did not eliminate the governmental interest in the setback areas.

Councilmember Bartholomew questioned if a temporary easement could be granted for the property.

Mr. Kuntz stated no possessory tools would change the fee ownership parcel boundary. The City Code was setup to measure setbacks by the fee ownership boundary of the parcel.

Councilmember Madden stated he would like to find a way to allow the parking stalls to remain in place because the additional spaces improved the parking and traffic flow for the tenants of the building.

Mayor Tourville questioned if there was a way to stipulate the parking spaces would remain in place as long as the property owners were in agreement. He stated if the property changed ownership in the future the new owner may not want the spaces.

Mr. Leach stated he had an agreement with the landowners that if they wanted the spaces to be removed in the future he would do so within a reasonable amount of time.

Mr. Kuntz stated the agreement did not grant a permanent easement and it was not something that was going to perpetually stay attached to the property. He opined it appeared that the landowners had reserved the right to revoke permission to use the property at any time for any reason. He explained the City did not want to be involved with the enforcement or monitoring of the terms of the agreement. The consenting parties would have to resolve their property rights individually if the permission to use the property was revoked.

Mayor Tourville suggested that the agreement would only have to be monitored if there was an issue. He questioned if there was something that City could keep in a property file that would memorialize the terms of the agreement between the consenting property owners.

Mr. Kuntz stated it would not be unreasonable to attach a condition that if permission or consent for use of the property was withdrawn the parking area would be removed.

Councilmember Piekarski Krech stated it may be a good idea to attach such a condition so as not to set a precedent. She questioned if the City could attach stipulations to a variance.

Mr. Kuntz stated the City could condition a variance.

Councilmember Piekarski Krech suggested a condition that would require written permission from the fee owners of the property for the variance to be in effect.

Mr. Kuntz stated that would be an escalated level of involvement on the part of the City. He explained the most minimal level of involvement would be to attach a condition stating if permission was withdrawn the cars could no longer be parked on the property. He noted such a condition would eliminate enforcement and oversight by the City.

Councilmember Bartholomew suggested the practical difficulty could be that the established businesses in the area do not have enough parking and without the additional parking their businesses would not survive.

Mayor Tourville opined the practical difficulty was that the property was better served with the additional parking spaces. He questioned if the adjacent property owner understood the condition that permission had to be in place in order for the parking spaces to remain as is.

Diane Knuckey, 6399 Cahill Avenue, stated she had no problem with allowing the parking spaces to encroach onto her property. She noted there was a written agreement in place between herself and Mr. Leach.

Motion by Tourville, second by Mueller, to adopt Resolution No. 14-140 approving a Variance to allow Parking with a Zero Foot Setback on the property located at 6426 Cahill Avenue, 6399 Cahill Avenue, and 3095 65th Street with the practical difficulty identified as the property being better served with the additional parking spaces and the added condition that if permission was withdrawn the parking would not occur on the property.

Ayes: 5

Nays: 0 Motion carried.

B. CHS, INC: Consider the following resolutions for property located at 5500 Cenex Drive:

- i) Resolution relating to a Major Site Plan Review to Expand the Parking Lot Facilities
- ii) Resolution relating to a Variance to allow a 10 Foot Front Yard Setback whereas 30 Feet is Required in the B-1, Limited Business District

Mr. Link reviewed the location of the property. He stated the applicant proposed construction of a parking lot on property located across the street from the main headquarters. The parking lot would be for 105 vehicles and would have one (1) access point onto Cenex Drive. The request required a variance from minimum front yard setback requirements. In all commercial zoning districts the front yard setback was ten (10) feet. In the B-1 zoning district the setback was 30 feet. The applicant proposed to move the setback to ten (10) feet in order to save some trees and slopes on the backside. The crosswalk would be moved up to the intersection as there were safety concerns associated with locating a crosswalk in the middle of a block. The application complied with all performance standards and the practical difficulty for the variance was the existing trees and slopes that would be preserved. He noted the stormwater ponding design would be worked out at the staff level with the applicant. Both Planning staff and the Planning Commission recommended approval of the requests.

Councilmember Piekarski Krech questioned if the location of the crosswalk would work best for the applicant.

Ian Ellis, CHS Facilities Manager, stated they were comfortable with the location of the crosswalk.

Councilmember Mueller questioned if the sidewalk continued to the main building.

Mr. Ellis explained it connected to an existing crosswalk located at the property's driveway. He stated the location of the crosswalk from the new parking lot was discussed with the Public Work Director. He noted the only drawback to locating the crosswalk at the intersection was that some employees may attempt to take a shortcut out of the lot and not cross the street at the designated crosswalk. He explained they planned to install landscaping that would make it difficult to take a shortcut to cross the street in order to keep their employees safe and encourage them to cross at the intersection.

Councilmember Piekarski Krech questioned if staff felt it was that big of a safety issue to move the crosswalk to the middle of the block. She opined a majority of the people would probably not walk to the intersection to cross the street.

Mayor Tourville suggested installing pedestrian crossing signs.

Mr. Thureen stated he wanted the crosswalk moved to the intersection. He explained the original design was not safe. Location of the crosswalk mid-block would be back by their driveway given the configuration of Cenex Drive. The prudent design was to locate the crosswalk at the intersection. He opined in terms of the responsible design it made no sense to locate a crosswalk 140 feet from an intersection.

Mr. Ellis noted that staff offered to allow the curbs on either side of the crosswalk to be painted yellow to prevent parking. He stated if someone did choose to cross where they were not supposed to there would be a lot of visibility. He added the existing sidewalk would be realigned to meet up to the crosswalk.

Mr. Thureen stated no parking would be allowed on both sides of the street from the intersection back to the driveway coming from Babcock.

Councilmember Piekarski Krech clarified staff did not want the crosswalk moved to the east where it would line up better with the entrance to the building.

Mr. Thureen replied in the affirmative. He strongly recommended that the Council not approve a design that would locate the crosswalk 140 feet from the intersection.

Mayor Tourville stated it should be designed as safely as possible.

Mr. Ellis stated they understood and agreed with staff's safety concerns regarding right turning and vehicles coming off of Babcock and that is why they revised their plans and moved the crosswalk to the intersection.

Mayor Tourville questioned what would be done about parking along Cenex Drive.

Mr. Thureen stated both sides of Cenex Drive would be striped no parking from Babcock back to the driveway. Parking would be allowed, as it currently is, on the remainder of Cenex Drive.

Mayor Tourville stated the concern was regarding semi-trucks that park along Cenex Drive.

Mr. Link stated the issue related to truck parking along Cenex Drive would be discussed at an upcoming work session. He noted the concerns were also related to truck storage along Cenex Drive.

Mayor Tourville stated his understanding was that CHS did not want parking of trucks to be allowed along Cenex Drive.

Mr. Lynch stated it was a public parking issue related to land use and zoning. He explained the City could not arbitrarily change the regulations without going through a public input and discussion process.

Councilmember Piekarski Krech questioned if on street parking of semi-trucks was allowed in the B-1 zoning district.

Mr. Link replied in the affirmative. He stated it was allowed anywhere in the City except in residential zoning districts. He reiterated the concern in this instance was also related to storage of trailers.

Councilmember Piekarski Krech stated she would be in favor of changing some of the parking regulations. She questioned if there would be a major issue with the stormwater on the property.

Mr. Link stated the applicant simply had to finalize the size of the pond with engineering.

Mayor Tourville questioned how far from the intersection parking of semi-trucks would be prohibited.

Councilmember Piekarski Krech stated visibility for cars entering and exiting the parking lot should also be a consideration.

Mr. Link stated that was an issue that the Council had the authority to address. He explained the City Council could determine if truck parking would be allowed or prohibited in specific areas.

Mr. Lynch suggested that the Council include any agreed upon no parking designation for Cenex Drive as a condition of approval.

Mr. Kuntz stated the imposition of the no parking restriction should be done by resolution.

Motion by Piekarski Krech, second by Mueller, to adopt Resolution No. 14-141 approving a Major Site Plan Review to Expand the Parking Lot Facilities, Resolution No. 14-142 approving a Variance to allow a 10 Foot Front Yard Setback whereas 30 Feet is required in the B-1, Limited Business District, and Resolution No. 14-143 Extending the No Parking Designation to the East Side of the North Driveway on Cenex Drive

Ayes: 5

Nays: 0 Motion carried.

C. CITY OF INVER GROVE HEIGHTS: Consider the Second Reading of an Ordinance related to Body Art Establishments

Mr. Kuntz stated staff incorporated the change directed by Council at the first reading to add a requirement that a cell phone number be provided by license applicants. He explained the Deputy City Clerk sent the draft ordinance to the Chamber of Commerce for review and comment. It was anticipated that feedback from the Chamber would be provided at the third reading of the ordinance.

Motion by Piekarski Krech, second by Bartholomew, to approve the Second Reading of an Ordinance related to Body Art Establishments

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Mr. Lynch announced that the City's annual Fall Clean-Up Day was scheduled for Saturday, September 20th from 8:00 am to 11:00 am at the Public Works Maintenance facility. He noted complete details could be found in the most recent issue of Insights and on the City's website.

9. ADJOURN: Motion by Mueller, second by Madden, to adjourn. The meeting was adjourned by a unanimous vote at 8:07 pm