

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, MARCH 23, 2015 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, March 23, 2015, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Bartholomew, Hark, Mueller and Piekarski Krech; City Administrator Lynch, City Attorney Kuntz, Community Development Director Link, Public Works Director Thureen, Parks and Recreation Director Carlson, Chief Thill, and Deputy Clerk Kennedy

3. PRESENTATIONS: None.

4. CONSENT AGENDA:

Mr. Thureen removed Item 4C from the Consent Agenda.

Mr. Lynch noted that item 4L had been revised to reflect that the title of the position would be "City Government Intern" rather than "Administrative Intern".

- A. i) Minutes – March 2, 2015 Regular City Council Work Session
- ii) Minutes – March 9, 2015 Regular City Council Meeting
- B. **Resolution No. 15-44** Approving Disbursements for Period Ending March 18, 2015
- D. **Resolution No. 15-45** Approving Waiver of Assessment Appeal Agreement for the Schmandt (Landowner) Property for City Project No. 2015-14, 47th Street Area Water and Sewer Improvements and Rehabilitation
- E. **Resolution No. 15-46** Authorizing Placement of Stormwater Discharge Improvements along the Mississippi River on the Minnesota Pollution Control Agency's Project Priority List and Intended Use Plan to Seek State Revolving Funds and Point Source Improvement Grants and Order the Preparation of a Feasibility Study for City Project No. 2016-01, Stormwater Treatment for Mississippi River Discharge
- F. **Resolution No. 15-47** Approving Purchase Agreement and Acceptance of Permanent Drainage and Utility Easement Agreement related to the Emergency Overflow of Pond H-2
- G. Approve Therapeutic Massage Licenses
- H. Approve Contractor for Inver Wood Golf Course Maintenance Facility
- I. Approve Directed Engineering Study for Energy Efficiency Projects at City Facilities
- J. Approve Rich Valley Dugout Covers
- K. Approve 2015 Tree Replacement Plan
- L. Approve Job Description and Authorize Advertisement for City Government Intern
- M. Schedule Public Hearing
- N. Schedule Special Meetings
- O. Approve Joint Powers Agreement between Dakota County Law Enforcement Agencies for the Continued Service of the Dakota County MAAG Team
- P. Approve Agreement for Appraisal Services
- Q. Personnel Actions

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

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT: None.

6. PUBLIC HEARINGS: None.

7. REGULAR AGENDA:

PUBLIC WORKS:

A. CITY OF INVER GROVE HEIGHTS: Consider Selection of Alignment for Argenta Trail North Study Area

Mr. Lynch stated City staff met with the developer, residents of the neighborhood, and County staff to review alternative alignment 3a. Staff was subsequently notified by neighborhood representatives of their decision to forego further participation in any discussions or negotiations due to concerns related to the relocation of the regional basin and the potential impacts on existing properties. City and County staff continued to meet and were able to reach an understanding regarding the costs related to the acquisition of property from the developer for the right-of-way necessary to make alignment 3a viable. He stated a preliminary understanding had also been reached with the developer that alignment 3a could occur on his property with the acquisition of right-of-way and consideration of the costs related thereto. He explained the City Council was asked to consider approval of several resolutions. Staff recommended that the Council forward alignment 3a to the Planning Commission for consideration at the public hearing scheduled on April 7th. Staff also recommended that the Council direct the City Administrator and the Finance Director to develop a financing plan to identify the timing and source of funds needed for the acquisition of right-of-way on the developer's property. He noted the current estimated cost being discussed was approximately \$2.3 million. The City requested that the County begin the process for acquisition and dedication of property required for the road right-of-way in alignment 3a. The City also requested that the County enter into a Joint Powers Agreement to identify the costs, timing, responsibilities, and the schedule related to the acquisition of property required to make alignment 3a viable. He noted the City also generally agreed that the developer would not need a complete review of the revised plat. The City would consider the revision to be an amendment to the existing plat. The revised plat would still be subject to the final plat approval process.

Mr. Thureen explained one of the challenges of alignment 3a was the fact that it would go through a major regional basin in the storm water management plan. Staff had to determine if the issue could be mitigated through relocation of the basin within the watershed. After reviewing the available information staff could not say with absolute certainty that the relocation of the basin would be sufficient. He explained the preliminary review indicated it would be very close to meeting the needs of the system, and the remaining questions could only be answered through the final design process. He stated he included a factor in his preliminary cost estimates to increase the required acreage, if necessary, to facilitate relocation of the basin. The City and County also reached an agreement related to cost sharing for the various components of the project. The developer's concept plat containing 78 lots was presented at the County's Plat Commission meeting and it was determined that the plat was viable. The Plat Commission's primary concerns related to access. County staff felt a temporary access to 70th Street would likely be approved provided the appropriate design was used to address safety issues. He explained staff provided the Council with a preliminary estimate of the City's potential costs. The City and County cost share would ultimately be based on the appraised value of the land that would need to be acquired. Staff felt the proposed recommendations provided the means to meet the timeline set forth in the conditions of the preliminary plat approval for Blackstone Ridge. Staff requested that two of the resolutions presented be amended to specify that payment to the developer would be in the amount of \$2,311,000.

Councilmember Piekarski Krech clarified that the only work that would occur until such time that future Argenta was constructed was reflected in light blue on Exhibit 1.

Mr. Thureen replied in the affirmative. He explained if the Council selected alignment 3a, there was a possibility that the width of the alignment could be reduced at the north end of the alignment during the final design process. He stated staff's expectation was that the temporary connection would be in place for a while.

Councilmember Bartholomew questioned why parcel #2 was still identified as a total acquisition when it appeared that alignment 3a veered further away from the property.

Mr. Thureen stated it was identified as a total acquisition because it was still unknown when the future Argenta Trail would be constructed. He noted the temporary connection from the southern segment had to tie into the existing alignment of Argenta Trail and staff did not feel that could be done without impacting the parcel.

Mr. Kuntz summarized the resolutions that were prepared for Council's consideration. The first resolution contained operative language that would identify alignment 3a as the preferred alignment. The second resolution requested that the County draft a Joint Powers Agreement that would address the requirements for a strip of land, approximately 265 feet in width, along the west boundary of Blackstone Ridge. The agreement would outline the cost participation of each agency in the transfer of the identified property to the County. The agreement would identify the property, address the dedication of a portion of the property byway of the platting process, and would further address the purchase of a portion of the property. The compensation for the portion of the property being transferred would be identified as \$2,311,000, subject to the appraisal process. He noted the Council was not agreeing to pay the amount specified at this time. The resolution also asked the County to identify, in the agreement, how the stormwater runoff would be taken care of, and how the capacity and construction of the stormwater ponds would be dealt with between the City, County, and the developer. The third resolution requested that the County begin the process of drafting an acquisition and dedication agreement with the developer for the identified strip of property. It also directed staff to meet with the City's financial consultants and bring back a financing plan for the City's portion of the obligation outlined in the Joint Powers Agreement. The fourth resolution recognized that the developer did not have to start over and go through the preliminary plat approval process for the revised plat of Blackstone Ridge. It was thought that the other questions related to the location and sizing of the basin could be worked out during the technical evaluation of the final plat.

Mayor Tourville asked Mr. Thureen to review the proposed alignment 3a.

Mr. Thureen provided an overview of the proposed alignment and the anticipated amount of right-of-way required. He also identified the impacted parcels that would be thought to require total acquisition.

Kyle Van, 6818 Argenta Trail, stated the neighborhood was grateful that a compromise could be reached between all parties involved and that alignment 3a proved to be a viable alternative. The neighborhood thanked the developer for his willingness to consider alignment 3a. He thanked City and County staff for their time and effort to find an alternative that would preserve existing homes in the neighborhood.

Motion by Piekarski Krech, second by Bartholomew, to adopt Resolution No. 15-49 Selecting Alignment Alternative 3a for the Realignment of Argenta Trail, Resolution No. 15-50 Requesting a Draft Joint Powers Agreement with Dakota County for the Acquisition and Dedication of a Strip of Land 265 Feet Wide Along the West Side of the Proposed Blackstone Ridge Plat for the Future Realignment of Argenta Trail with the suggested revision, Resolution No. 15-51 Requesting that Dakota County Prepare a Draft Acquisition and Dedication Agreement with James Deanovic for the Transfer of the Westerly 265 Feet of the Proposed Preliminary Plat of Blackstone Ridge with the suggested revision, and Resolution No. 15-52 Accepting for Review as Part of the Final Plat Review Process an Amendment to the Preliminary Plat and Preliminary PUD Development Plan for Blackstone Ridge

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech, second by Mueller, to receive written correspondence

Ayes: 5

Nays: 0 Motion carried.

COMMUNITY DEVELOPMENT:**B. RICHARD & DODY SOBASZKIEWICZ:** Consider Application for Chicken License for property located at 7775 Boyd Avenue

Richard Sobaszekiewicz, 7775 Boyd Avenue, stated when they first applied for a chicken license two (2) years ago a similar complaint was raised by the same neighbor. He explained they attempted to address the issue with the neighbor and offered to install a fence to mitigate the concerns. He noted in the past two (2) years they had not heard anything from the concerned neighbor. He reiterated if a complaint had been raised they would have attempted to address it right away.

Mayor Tourville stated the concerns primarily related to noise and that the chickens were at times loose in the yard.

Mr. Sobaszekiewicz explained the chickens were loose in the yard when the coop was being cleaned. He noted they were always supervised while out in the yard.

Kirsten Schwartz, 7755 Boyd Avenue, stated she lived next door to the applicants. She explained her family spent a lot of time outdoors and had not experienced any issues with the chickens being kept on her neighbors' property. She added she had no noise concerns either.

Councilmember Bartholomew questioned if there had been a noticeable increase in the number of coyotes in the area.

Mr. Sobaszekiewicz stated he had noticed some tracks and droppings in the yard. He noted the coop was very secure and he had not seen any damage to the coop.

Councilmember Mueller stated there was a neighbor who complained about the noise.

Ms. Sobaszekiewicz stated the chickens did make noise when they laid eggs. She noted the chickens were generally quiet the majority of the time. She opined that chickens were quieter than barking dogs.

Dian Piekarski, 7609 Babcock Trail, stated she heard dogs barking all the time and a chicken clucking was not the same as a rooster crowing. She opined there were a lot of other noises within neighborhoods that were more disruptive than a chicken clucking when it laid an egg.

Councilmember Mueller suggested that the applicant find a way to mitigate the neighbors' concern.

Councilmember Piekarski Krech questioned if the chickens were locked in the coop at night.

Ms. Sobaszekiewicz stated they were allowed to go between the coop and the run.

Councilmember Piekarski Krech stated locking the chickens inside the coop at night would mitigate some of the noise problems so they cannot get out as soon as it is light outside.

Mayor Tourville suggested that the neighbors get together to find a compromise.

Motion by Hark, second by Piekarski Krech, to approve application for a Chicken License for property located at 7775 Boyd Avenue

Ayes: 4

Nays: 1 (Mueller) Motion carried.

C. CITY OF INVER GROVE HEIGHTS: Consider Ordinance Amending Inver Grove Heights City Code Title 5, Chapter 9 related to Public Nuisances on Property

Mr. Link stated the ordinance would allow the City to remove public nuisances such as junk in a yard or junk vehicles. He explained the ordinance was placed on the website and an informational article was included in the most recent edition of Insights. To date the City received eight (8) responses, six (6) of which did not pertain to the ordinance. The other two (2) responses were supportive of the proposed ordinance. He noted the Chamber of Commerce did not comment on the ordinance.

Councilmember Bartholomew referenced the section of the ordinance pertaining to penalties. He questioned why a violation of section 5-9-6A would be a misdemeanor offense and a violation of section

5-9-4H would be considered a petty misdemeanor. He opined the misdemeanor level offense was too steep and suggested including language that would provide flexibility for a more graduated response to violations.

Mayor Tourville stated it was originally thought that many of the issues were with repeat offenders and the main problem was actually achieving compliance.

Councilmember Bartholomew stated he was hesitant to get heavy-handed in the City's response to violations and wanted to ensure that the primary focus for first-time violations was on education.

Mr. Link explained almost all violations of the code, with a couple of minor exceptions, were considered to be misdemeanor offenses. He stated once the City received a complaint the Code Compliance Officer would investigate the complaint, and then would issue a series of notification letters to the property owner in an attempt to educate and achieve compliance. A citation would only be issued as a last resort and after numerous attempts to remediate the violation.

Mr. Kuntz reviewed the maximum penalties that could be imposed for misdemeanor and petty misdemeanor offenses. He explained with respect to many of the City's land use regulations, violations that were prosecuted had not been met with overly strict penalties by the court system. He noted much of the feedback the City had received was that many felt the penalties for violations had not been large enough.

Councilmember Bartholomew opined that it was inconsistent to treat violations of certain sections of the code differently in terms of the level of offense.

Councilmember Hark stated the court would not typically punish a first-time offender with the maximum penalty. He opined a petty misdemeanor was equivalent to a parking ticket and really did not mean much. He stated his preference would be that a violation be treated as a misdemeanor level offense.

Mayor Tourville stated one of the complaints had been that the court system had been too lackadaisical in its penalties for code violations.

Councilmember Mueller questioned the screening requirement for items in a backyard and how items would be classified as junk.

Mr. Link stated he would look into the issue and bring back more information.

Mr. Kuntz stated there was an exception included in the ordinance to address automobiles and trailers being stored in the backyard.

Mr. Hark questioned what the difference was between firewood and woodpiles.

Mr. Link stated the idea was that someone with a lot of firewood needed to keep it stacked and stored in an orderly manner. He added he would provide further clarification prior to the third reading.

Chris Perrone, 5989 Babcock Trail, stated he had a nuisance home in his neighborhood and the property owner routinely found ways to avoid incurring any real penalties and continued to violate the same provisions of the code. He explained the neighborhood supported the proposed ordinance because it would allow the City to better address ongoing issues with repeat offenders.

Motion by Mueller, second by Bartholomew, to approve the second reading of an Ordinance amending Inver Grove Heights City Code Title 5, Chapter 9 related to Public Nuisances on Property

Ayes: 5

Nays: 0

Motion carried.

ADMINISTRATION:**D. CITY OF INVER GROVE HEIGHTS:** Consider Resolution Approving Encroachment Agreement with Magellan Pipeline

Mr. Kuntz stated the item related to the extension of utilities for City Project No. 2015-10. He explained there was a pipeline easement on the Peltier property owned by the Magellan Pipeline Company. The easement gave Magellan the right to consent to any other easement that interfered with their existing easement. The proposed encroachment agreement had been approved by City Engineering staff, the consultants for the project, and by Magellan Pipeline Company.

Motion by Bartholomew, second by Piekarski Krech, to adopt Resolution No. 15-53 approving Encroachment Agreement with Magellan Pipeline**Ayes: 5****Nays: 0 Motion carried.****E. CITY OF INVER GROVE HEIGHTS:** Consider Resolution Approving the Negotiated Settlement Agreement between James E. Peltier and the City Concerning Damages relating to the Peltier Property relative to City Project No. 2015-10

Mr. Kuntz stated by way of the agreement the City would pay the property owner the sum of \$110,000 in return for a permanent drainage and utility easement across the property.

Motion by Piekarski Krech, second by Bartholomew, to adopt Resolution No. 15-54 approving the Negotiated Settlement Agreement between James E. Peltier and the City Concerning Damages relating to the Peltier Property relative to City Project No. 2015-10**Ayes: 5****Nays: 0 Motion carried.****F. CITY OF INVER GROVE HEIGHTS:** Consider Resolutions relating to the Transfer and Extension of the Comcast Franchise

Jodie Miller, NDC4, stated nothing had changed since the Council had last discussed the transfer and extension of the franchise at their March 2nd work session. She explained the other member cities had already approved both resolutions. She stated the first resolution related to a 12-month extension of the existing franchise. The second resolution related to the transaction transferring the existing franchise to a new owner. She added there were conditions of approval attached to the transfer transaction to protect cable subscribers. She noted the cable franchise was not exclusive.

Brian Grogan, Moss & Barnett, reviewed the proposed resolutions and the implications of the transaction to transfer the existing franchise. He explained Comcast, the largest provider in the nation, was slated to acquire the second largest provider, Time Warner. He stated all of the major markets in the United States would be under the control of Comcast. Because the transaction was so large, Comcast agreed to divest itself of 4 million customers. If the federal government approved the acquisition, the assumption was that Comcast would no longer be doing business in Minnesota. The new company, GreatLand Connections, would rely heavily on Charter Communications to provide many services. He noted GreatLand Connections was a brand new company and had no history to investigate. He explained GreatLand would offer jobs to all local technical personnel and government personnel. Customers would have the ability to purchase Spectrum products. He stated the Spectrum subscription packages would be similar to those currently offered by Comcast in terms of programming and price. Charter would provide programming agreements and would also be responsible for marketing and billing services. He stated current Comcast telephone customers would be able to retain the same phone number and cable subscribers would keep the same equipment. Email customers would be required to change their email address to a different domain. He explained the cable commission had been diligent in its efforts to review the transaction and to include consumer protection conditions in the resolutions. He stated the first resolution related to approval of a 12-month extension of the existing franchise to give the cable commission time to finalize the franchise renewal. The second resolution related to approval of the transfer of the existing franchise.

The approval of the transfer would be contingent upon maintaining an escalated complaint system to ensure that Inver Grove Heights residents can call and receive immediate response to their issue. Quarterly meetings would also be required with the new grantee to monitor customer service related issues and monthly meetings to address the franchise renewal. He noted a stipulation was also included whereby subscriber costs could not be increased based on the costs of the actual purchase of the system. He reiterated the transaction had not yet been approved at the Federal level. While the City had the right to deny the transaction, the denial would have to be based on some rationale that the new grantee lacked legal, technical, or financial qualifications. He noted it would be difficult to defend such action by the Council. All costs incurred by the member cities with respect to the processing of the transfer would be reimbursed by the new company.

Mayor Tourville stated denial of the transaction would not achieve anything.

Councilmember Piekarski Krech questioned if existing Comcast customers would be eligible for new customer rates from GreatLand.

Mr. Grogan stated existing customers would be considered legacy customers and would not be eligible for new customer subscription rates.

Councilmember Bartholomew questioned if the proposed PEG increase was the same for all cities.

Mr. Grogan stated the provision was unique to the franchise agreement with NDC4.

Motion by Bartholomew, second by Piekarski Krech, to adopt Resolution No. 15-55 Granting Comcast of St. Paul, Inc. a Franchise Extension to March 31, 2016

Ayes: 5

Nays: 0 Motion carried.

Motion by Bartholomew, second by Piekarski Krech, to adopt Resolution No. 15-56 approving the Transfer of the Cable Franchise and Change of Control of the Grantee

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Mr. Kuntz reviewed the timelines for the various public improvement projects scheduled to begin in 2015.

9. ADJOURN: Motion by Hark, second by Mueller, to adjourn. The meeting was adjourned by a unanimous vote at 8:58 pm