

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, APRIL 13, 2015 - 8150 BARBARA AVENUE**

**CALL TO ORDER/ROLL CALL** The City Council of Inver Grove Heights met in regular session on Monday, April 13, 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, City Engineer Kaldunski, Finance Director Smith, Chief Stanger, and Chief Thill

**3. PRESENTATIONS:**

Bill Klein, 8103 Cleadis Avenue, discussed the Community Advisory Council (CAC), an advisory group to Flint Hills Resources. He recognized the Inver Grove Heights residents who served on the CAC. He explained the purpose of the CAC was to provide two-way communication between the community and the management of Flint Hills Resources. He noted the group also made recommendations to Flint Hills regarding the environment, safety, and other issues of concern to citizens living in close proximity to the refinery. The group also provided a mechanism for Flint Hills Resources to receive feedback directly from the community regarding refinery operations and plans. He stated the refinery employed approximately 900 full-time employees and the operations and safety of the facility were important to the community. He explained the CAC was recruiting members of the community to serve. He stated the organization met on a monthly basis to receive updates from the MPCA, review safety issues, and hear presentations from the refinery's plant managers regarding current operations and activities at Flint Hills. Applications for the CAC were available on the Flint Hills website.

**4. CONSENT AGENDA:**

Mayor Tourville removed Item 4E from the Consent Agenda.

- A. March 23, 2015 Regular City Council Meeting
- B. **Resolution No. 15-57** Approving Disbursements for Period Ending April 7, 2015
- C. **Resolution No. 15-58** Approving Amendment No. 1 to the Development Contract for the Plat of Arbor Crest 2<sup>nd</sup> Addition
- D. **Resolution No. 15-59** Declaring Costs to be Assessed and Ordering Preparation of Proposed Assessments and **Resolution No. 15-67** Calling for Hearing on Proposed Assessments for the 2015 Pavement Management Program, City Project No. 2015-09E, 47<sup>th</sup> Street Area Reconstruction
- F. **Resolution No. 15-61** Awarding Contract for Appraisal Services to Integra Realty Resources
- G. **Resolution No. 15-62** Accepting Donations from ReMax Agents
- H. **Resolution No. 15-63** Approving Additional Carryover of Unused Budget Appropriations and Payment of 2014 and 2015 City Contributions to Inver Grove Heights Firefighters' Relief Association
- I. Approve Date and Time of Annual Performance Review of the City Administrator
- J. Approve Contract for North Valley Disc Golf Admissions and Retail Sales
- K. Approve Rich Valley Maintenance Building Improvements
- L. Approve Contractor for 2015 Goose Management
- M. Approve Therapeutic Massage License
- N. Schedule Public Hearing
- O. Approve 2015/2016 Collective Bargaining Agreement between the City of Inver Grove Heights and Law Enforcement Labor Services (LELS Patrol) Local 80
- Q. **Resolution No. 15-64** Approving Action on the Housing Committee Work Plan
- R. Personnel Actions

**Motion by Mueller, second by Piekarski Krech, to approve the Consent Agenda**

**Ayes: 5**

**Nays: 0          Motion carried.**

**E. Resolution Receiving and Accepting Professional Services Proposal from Short Elliot and Hendrickson, Inc. (SEH) for City Project No. 2015-09E – 47<sup>th</sup> Street Area Reconstruction and City Project No. 2015-14 – 47<sup>th</sup> Street Area Water and Sewer Improvements and Rehabilitation**

Mayor Tourville stated he would abstain from the vote.

**Motion by Bartholomew, second by Hark, to adopt Resolution No. 15-60 receiving and accepting professional services proposal from Short, Elliot, and Hendrickson, Inc. (SEH) for City Project No. 2015-09E, 47th Street Area Reconstruction, and City Project No. 2015-14, 47th Street Area Water and Sewer Improvements and Rehabilitation**

**Ayes: 4**

**Nays: 0**

**Abstain: 1 (Tourville)          Motion carried.**

**5. PUBLIC COMMENT:**

Dennis Wolfe, 6742 Argenta Trail, questioned if the City could install handicap parking spaces closer to the entrance at City Hall.

Mayor Tourville stated staff would look into the issue.

**6. PUBLIC HEARINGS:**

**A. CITY OF INVER GROVE HEIGHTS:** Consider Ordering the Trunk Utilities Project on the 71<sup>st</sup> Street Alignment, Authorizing and Approving Final Plans and Specifications, Authorizing City Attorney to Complete Easement Negotiations, and Authorizing Advertisement for Bids for the 2015 Improvement Program, City Project No. 2015-13 – NWA Trunk Utility Improvements – Argenta District (from 70<sup>th</sup> Street Lift Station to Blackstone Ridge Development)

Mr. Kaldunski reviewed the proposed project area. He explained the project would consist of trunk and sanitary sewer lines from the lift station on 70th Street to the Blackstone Ridge development. The estimated cost of the project was \$3.14 million. The project was proposed be funded through the Utility Fund (Fund 511) and Sewer Fund (Fund 512). He noted both sources were funded via connection fees collected as development occurred in the Northwest Area. He stated the City did not intend to levy special assessments for the project.

Allan Cederberg, 1162 E. 82nd St., questioned who would be responsible for the installation of gas and electric utility lines for the area.

Mr. Kaldunski stated the proposed project did not include the installation of small utilities. He explained the small utilities were installed by the various public utility providers to serve new developments. He noted developers typically entered into agreements with each of the specific private utilities for the installation of services. The installation of services within public right-of-way or across City easements required a permit from the City.

Mr. Cederberg questioned if the installation of all the utilities could be combined to save money.

Mr. Kaldunski stated the private utilities were generally installed in joint trenches by the various providers. He noted the installation of private utilities was not relevant to the project being discussed which related to the installation of public utilities.

**Motion by Bartholomew, second by Piekarski Krech, to close the public hearing.**

**Ayes: 5**

**Nays: 0          Motion carried.**

Councilmember Bartholomew stated he received inquiries regarding the public hearing notice and why the acreage identified was smaller than the acreage contained in the Northwest Area.

Mr. Kaldunski stated the entirety of the Northwest Area encompassed multiple districts, not just the Argenta District. He noted this specific hearing pertained to the acreage within the Argenta District and that was reflected in the notice of the hearing.

**Motion by Bartholomew, second by Piekarski Krech, to adopt Resolution No. 15-68 Ordering Improvements, Authorizing and Approving Plans and Specifications, Authorizing the City Attorney to Complete Negotiations for Easements, and Authorizing Advertisement for Bids for 2015 Improvement Program, City Project No. 2015-13, NWA Trunk Utility Improvements - Argenta District (70th Street Lift Station to Blackstone Ridge Development)**

**Ayes: 5**

**Nays: 0          Motion carried.**

**B. CITY OF INVER GROVE HEIGHTS: Consider Application for On-Sale/Sunday Intoxicating Liquor License from El Azteca for Premises Located at 5816 Blaine Avenue**

Mr. Lynch stated an application for an on-sale/sunday intoxicating liquor license was submitted for the premises located at 5816 Blaine Avenue. He explained the Police Department was unable to complete the background investigation prior to the hearing. He recommended that Council take all relevant testimony and continue the public hearing to the regular meeting on April 27th.

Councilmember Piekarski Krech questioned why the background investigation had not been completed.

Chief Stanger explained the proposed ownership group included one out-of-state applicant and the Police Department was waiting on responses to the out-of-state inquiries. He stated the investigation would be completed by April 27th.

Mayor Tourville questioned if the applicant understood that final action on the license would be postponed until the regular meeting scheduled for April 27th.

Teresa Macias, applicant, replied in the affirmative. She stated they planned to open for business in May.

**Motion by Piekarski Krech, second by Mueller, to table consideration of the application for an on-sale/sunday intoxicating liquor license for the premises located at 5816 Blaine Avenue to April 27, 2015 at 7:00 pm**

**Ayes: 5**

**Nays: 0          Motion carried.**

**7. REGULAR AGENDA:**

**PUBLIC WORKS:**

**A. CITY OF INVER GROVE HEIGHTS:** Review Bids Received for the 2015 Capital Improvement Program, City Project No. 2015-10 – NWA Trunk Utility Improvements, Argenta District (Alverno Avenue to Blackstone Vista Development) and City Project No. 2015-11 – NWA 70<sup>th</sup> Street Lift Station, Argenta District

Mr. Kaldunski explained the City received bids for City Project No. 2015-10 to construct the sanitary sewer and trunk water mains from Alverno Avenue to the Blackstone Vista development, and for City Project No. 2015-11 to construct the lift station on 70th Street. He stated favorable bids were received from SM Hentges and Sons. He noted the bids were approximately 2.5% less than the engineer’s estimate, for a total contract in the amount of \$2,083,780.48. He explained there were delays with the Blackstone Vista project that would preclude the City from awarding a contract at this time. Several easements within the Blackstone Vista project could not be granted until the plat was filed, and the developer had not yet transferred ownership of Outlot B to the City for construction of the lift station. Staff recommended that Council postpone awarding the contract to April 27, 2015 to allow staff time to complete the remaining

components related to the Blackstone Vista project.

**Motion by Piekarski Krech, second by Bartholomew, to table the award of bid for City Project No. 2015-10 and City Project No. 2015-11 to April 27, 2015**

**Ayes: 5**

**Nays: 0          Motion carried.**

**COMMUNITY DEVELOPMENT:**

**B. CITY OF INVER GROVE HEIGHTS:** Consider Resolution Approving a Comprehensive Plan Amendment to Chapter 5: Transportation, Identifying the Realignment of Argenta Trail between the Points at Highway 55 on the South End and Near I-494 on the North End

Mr. Link stated the proposed comprehensive plan amendment identified the future alignment of Argenta Trail. He reviewed the southern and northern alignments. The City previously approved the Blackstone development in November of 2014. A condition of approval was that the City had to amend the Comprehensive Plan to determine the alignment of future Argenta Trail and the developer had to amend the plat to conform to the future alignment. The Planning Commission held a public hearing to consider the amendment that identified Option 2 as the preferred alignment for the southern segment and Alternative 3a as the preferred alignment for the northern segment. Both Planning staff and the Planning Commission recommended approval of the alignments as shown on the amended Comprehensive Plan. Staff also recommended a minor change to the resolution to include the corresponding map which identified the selected alignments.

Councilmember Hark questioned if the amendment would be submitted to the Met Council for approval.

Mr. Link replied in the affirmative. He explained any amendment to the Comprehensive Plan required review by the Metropolitan Council.

Councilmember Piekarski Krech clarified that the 77th Street alignment had to be included on the map.

Mr. Link replied in the affirmative.

Allan Cederberg, 1162 E. 82nd St., questioned if the property owners that would be affected by the proposed southern alignment of Argenta Trail had been notified.

Mr. Kaldunski stated the property owners had been notified by Dakota County and were involved throughout the process that was undertaken to select the alignment.

Dennis Wolfe, 6742 Argenta Trail, questioned if the proposed comprehensive plan amendment could be changed in the future if circumstances changed over time.

Mr. Kuntz stated in order to change the comprehensive plan the City would be required to follow the same process involving study, analysis, and review by the Planning Commission, and Council action of at least four (4) votes. He explained once the right-of-way was acquired as proposed it was unlikely that a change would occur because there would have been an investment made in the right-of-way.

Nikki Abbott, 6720 Argenta Trail, opined that something could be done with the temporary connection on the southern segment to save the five (5) homes that would be taken out.

Mr. Kaldunski explained there were certain design standards that had to be met and the grade differentials also had to be considered. He stated the selected alignments had been studied in great detail to consider all available options.

Eric Fosmoe, Kimley Horn, stated the County grade design standards would preclude the suggested change to the selected alignment. He noted the proposed change would actually result in more homes being lost because the existing Argenta Trail sat higher than the proposed realignment. He explained during the final design process staff would continue to look for ways to reduce the impact on existing property owners. He stated there had been ongoing discussions with the impacted property owners, but

the acquisition process could not begin until the project was actually ordered.

Councilmember Bartholomew stated the Public Works Director had previously stated that every effort would be made to save as many properties as possible.

**Motion by Bartholomew, second by Hark, to adopt Resolution No. 15-65 approving a Comprehensive Plan Amendment to Amend Chapter 5 - Transportation Identifying the Realignment of Argenta Trail to Reflect the Southern and Northern Alignment between Hwy. 55 at the South End and I-494 at the North End with the attachment of the map as proposed.**

**Ayes: 5**

**Nays: 0          Motion carried.**

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

Mr. Link stated the proposed ordinance would give the City the authority to remove public nuisances, such as junk and junk vehicles, from properties. He noted the ordinance had not been changed since the second reading. Since the second reading of the ordinance staff received one (1) email in support of the proposed amendment. He provided an overview of the process followed by code compliance and stated the emphasis of the program was on education rather than penalty. Staff recommended approval of the ordinance as presented.

Mayor Tourville stated he received numerous emails and phone calls from residents expressing concerns regarding repeat offenders and the inability of the City and the court system to achieve compliance. He suggested that the Council be provided with monthly updates on the activities within code compliance to be able to track what action had been taken by staff and where the process was at for each particular case.

Councilmember Piekarski Krech questioned at what point the City would be able to abate a nuisance on a property if previous attempts to achieve compliance were unsuccessful.

Mr. Link stated there was a prescribed process in place that would require a hearing in front of the City Council. He noted without the proposed ordinance amendment the City would not have the authority to abate the nuisance.

Mary & Don Brau, 1800 60th St. E., expressed support for the proposed ordinance.

**Motion by Mueller, second by Hark, to adopt Ordinance No. 1291 Amending Inver Grove Heights City Code Title 5, Chapter 9 related to Public Nuisances on Private Property**

**Ayes: 5**

**Nays: 0          Motion carried.**

**FIRE:**

**D. CITY OF INVER GROVE HEIGHTS:** Consider Authorizing the Inver Grove Heights Fire Department to Order the Replacement Engine for Engine 11 and Pre-Pay the Full Cost at the Time it is Ordered

Chief Thill stated the issue had been previously discussed at the most recent Council work session. The truck committee finalized the plans and the final cost was estimated to be \$607,000. She noted a pre-payment discount of \$23,600 was available to the City that would reduce the cost to \$583,400. The current amount of funding available for replacement of the truck was \$711,000. After the City paid for the new truck and sold the old engine there would be approximately \$178,000 in the Engine 11 replacement fund. She suggested scheduling a future discussion with the Council on the use of the remaining funds.

Councilmember Hark questioned who was responsible for selling the old engine.

Chief Thill explained the sale of the old engine was included in the contract for the

purchase of the new truck.

**Motion by Piekarski Krech, second by Mueller, to authorize the Inver Grove Heights Fire Department to order the replacement engine for Engine 11 and to pre-pay the cost in full.**

**Ayes: 5**

**Nays: 0          Motion carried.**

**FINANCE:**

**E. CITY OF INVER GROVE HEIGHTS:** Discuss Long-Term Funding of Argenta Trail

Ms. Smith discussed funding for the Deanovic easement. Staff proposed the use of cash retained within the Host Community Fund. She suggested repurposing the use of approximately \$1.5 million to cover the City's share of the cost of the easement. She noted the funds had previously been set aside for the new fire station and proposed bonding for a higher amount at the time the fire station was constructed. She explained street reconstruction bonds would be issued for construction of the northern and southern segments of Argenta Trail.

Councilmember Hark stated the City had not even come close to making a decision with respect to the new fire station.

Ms. Smith clarified that no action was required by Council at this time.

Mr. Lynch stated acquisition of the easement from the developer would likely occur within 90-120 days. The funding mechanism proposed by the Finance Director was the short-term solution to be able to pay the City's share of the acquisition costs.

**ADMINISTRATION:**

**F. CITY OF INVER GROVE HEIGHTS:** Hearing to Consider Termination of Employment

Mayor Tourville stated the Council previously met in closed session to discuss the issue.

Ms. Shefchick stated the Council was asked to consider the termination of employment of Officer Niedzielski. She asked Council to accept the report presented by staff under separate cover. She also invited the employee to provide any additional information available for Council consideration.

Mr. Kuntz explained the purpose of the hearing was to determine whether the Council would order the termination of a police officer. The City Code afforded the employee a hearing in front of the Council. The Administration Department compiled a list of documents, labeled A - P, and provided them under separate cover to the Council.

**Motion by Mueller, second by Piekarski Krech, to receive documents A-P, the memo prepared by the City Attorney, and the memo prepared by the Human Resources Manager**

**Ayes: 5**

**Nays: 0          Motion carried.**

Ms. Shefchick stated Officer Niedzielski was injured while on duty on July 20, 2013. To date, the employee's treating physician maintains that the employee is unable to return to work. It is the employee's responsibility to provide regular communication to the employer regarding their status while on leave. The onus is on the employee to provide the employer with medical documentation showing their ability to return to work. The City had not received such documentation from the employee. The data collected demonstrated that it was unlikely the employee would be able to return to work and perform the essential functions of the job. Two independent medical examinations completed in late 2014 showed the employee could not perform the functions of a patrol officer. The findings included sedentary work, restrictions on walking, no driving, and permanent lifting restrictions from a previous lower back injury. In January the City Administrator and Police Chief met with the employee to allow an opportunity for the employee to provide return to work documentation. At that time the employee was unable to provide

documentation showing a guaranteed or probable return to work. Subsequent to that meeting, the recommendation was made to the City Council to proceed with termination to allow the department to move forward and address staffing levels. Council met in executive session on March 9th and directed staff to move forward with the hearing process. The purpose of the hearing was to allow the employee the opportunity to present evidence or address the Council. If no further evidence was provided staff recommended that Council approve the termination of employment of Officer Niedzielski effective April 24, 2015.

Allan Cederberg, 1162 E. 82nd St., stated if the officer was injured at work they should be provided with a severance package.

Mayor Tourville stated the Council would abide the terms of the employment contract and the regulations outlined in the City Code.

Councilmember Piekarski Krech questioned if Document O was from the QRC and if termination was authorized based on the information contained in the QRC.

Ms. Shefchick stated the document referenced was from the QRC and noted the information referenced the fact that the employee’s physician had not authorized her return to work.

Councilmember Piekarski Krech stated she thought the recommendation of the QRC had to be followed.

Ms. Shefchick stated the League of Minnesota Cities was also consulted and confirmed that termination was possible.

Mr. Kuntz stated the employee had been absent from work for 21 months and the information received indicated that the employee was unable to return to work at this time and there was no information provided to demonstrate that the employee would be able to return to work at some point in the future.

Councilmember Hark clarified that the City had the totality of the communications between the City and the officer and that the officer was not present at the hearing.

Ms. Shefchick replied in the affirmative.

Councilmember Bartholomew clarified that all eligible and accrued benefits would be provided to the employee upon termination.

Ms. Shefchick replied in the affirmative.

**Motion by Bartholomew, second by Hark, to close the public hearing**

**Ayes: 5**

**Nays: 0            Motion carried.**

**Motion by Bartholomew, second by Hark, to adopt Resolution No.15-66 approving termination of employment for Officer Patricia Niedzielski effective April 24, 2015**

**Ayes: 5**

**Nays: 0            Motion carried.**

**8. MAYOR & COUNCIL COMMENTS:**

**9. ADJOURN:** Motion by Bartholomew, second by Hark, to adjourn. The meeting was adjourned by a unanimous vote at 8:46 pm