

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, OCTOBER 12, 2015 - 8150 BARBARA AVENUE**

**1. CALL TO ORDER and 2. ROLL CALL**

The City Council of Inver Grove Heights met in regular session on Monday, September 14, 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 Clerk Tesser, Parks and Recreation Director Carlson, Finance Director Smith, Public Works Director Thureen, Police Chief Stanger and Fire Chief Thill.

**3. PRESENTATIONS:** None.

**4. CONSENT AGENDA:**

- A. Minutes of September 14, 2015 Regular City Council Meeting
- B. Resolution Approving Disbursements for Period Ending October 6, 2015
- C. Resolution Memorializing Findings of Fact and Reasons for Denial Relating to the Land Use Requests of Athlos Preparatory Academy
- D. Consider Resolution Accepting Proposal from Emmons & Olivier Resources, Inc. (EOR) for a Hydrologic Modeling Report for the Northwest Area (NWA) South Robert Trail (T.H. 3) Watershed Corridor
- E. Dakota County's 2016-2020 Capital Improvement Program
- F. Consider Approval of Land Alteration Permit No. C-096-15 at 10333 Barnes Way
- G. Consider a Resolution Approving Special Assessment Deferral for City Project No. 2015-09E – 47th Street Area Reconstruction
- H. Amend Assessment Roll for 2015 Pavement Management Program, City Project No. 2015-09E – 47th Street Area Reconstruction to Reflect Credits for the Residential Driveway Restoration Program Participation
- I. Personnel Actions

Mr. Lynch stated that Item 4J. was added to the agenda. Councilmember Piekarski Krech read the item 4J. Consider Resolution Rescheduling the Public Hearing Date for City Project No. 2015-16- Northwest Area Truck Utility Improvements, Argenta District (Blackstone Ridge/Argenta Trail Improvements.

**Motion by Mueller, second by Piekarski Krech, to approve the Consent Agenda 4.A- 4.J. 4D and 4E was pulled by Councilmember Bartholomew**

**Ayes: 5**

**Nays: 0            Motion carried.**

Councilmember Bartholomew pulled items 4D and 4E.

Councilmember Bartholomew asked Mr. Thureen to discuss item 4D at length. Councilmember Bartholomew discussed his concern of using the same consultant and expressed his feeling as to why the city should expand their consultant search. He further stated that Mr. Thureen had good reasons for why staff chooses Emmons & Olivier and asked that Mr. Thureen also explain his reasons to the council.

Mr. Thureen discussed item 4D. This stated that it would be a feasibility study for emergency overflows for the emergency water basins for a portion of the Northwest Area. This was identified as a need in 2006. The plan would identify the alignment and then do a cost estimation on a feasibility bases. The driver on this is the two developments that are a part of the regional basins one is Blackstone Ridge and the second one is Hanna Meadows which would be in the NE corner of 70<sup>th</sup> Street and Truck Highway 3. The emergency flow would go down through the series of basins to Argenta Hills. The purpose of the study is to define the entire overflow system. Shortly he stated that the city would need to do a study on the roundabout with the county at 70<sup>th</sup> and Highway 3 and other future developments. It is staff's concern

to get this feasibility study moving because of the timing with the active planning and design occurring along with major arterials 70th St and Hwy 3.

Mr. Thureen overviewed why staff recommends working with Emmons & Olivier. Staff's comfort level with the agency is high because they developed the first model for this specific purpose and have the historical knowledge. Mr. Thureen stated that other firms were considered.

Councilmember Bartholomew discussed the 240 hours estimated and felt the estimate was at the high end. Mr. Thureen stated that staff would help offset those estimated hours to save cost. Mr. Thureen stated that storm water is more time intensive and complicated in terms of design and what's involved. It is not similar to the city's water system.

Councilmember Piekarski Krech stated that we have given them great projects and that Emmons & Olivier have won National awards. Councilmember Mueller stated he thought it was high staff estimated time as well.

Councilmember Hark asked if historically they spend the amount that the consultant estimated. Mr. Thureen stated that most of the work has been development related. He said the cost is usually higher because of the process but it is not the fault of the consultant.

Mayor Tourville asked if out of the three firms if the ballpark was around \$150 dollars an hour. Mr. Thureen stated that at a principal they are between \$130-\$150 an hour. Mayor Tourville stated that they are quoting \$250 dollars an hour. Mr. Thureen stated it comes down to quality of staff who are working on the project. Councilmember Bartholomew summarized the total cost estimated on Page 3 on the memo provided to the council. He stated it's estimated at about 620 hours for the total task. Councilmember Hark wanted to state that this firm has the familiarity. The council requested Mr. Thureen to look at the other two firm's costs to compare the cost estimates of Emmons & Olivier.

Councilmember Bartholomew asked Mr. Thureen to discuss item 4E. Dakota County's 2016-2020 Capital Improvement Program. He expressed concerns that if we accept this CIP are we accepting the Akron Avenue plan? Mayor Tourville stated that we are not approving the design or plan. Councilmember Hark stated that there is an explicit agreement here within the CIP. Councilmember Bartholomew would like to wordsmith the CIP before the council approves.

Mr. Lynch stated we understand the explicit agreement. All plans including design have to be approved by the city. If you lose a placeholder than it may not come back for another five years and won't be placed on the forefront of the budget. Mr. Lynch agreed that the dates or contingency language could be altered to help with the council's comfort level. Further he stated that Dakota County understands the council's concern. Mayor Tourville would like that contingency language for all the projects.

Councilmember Bartholomew would like the dates moved back to 2018, 2019 and 2020. Mr. Thureen, stated he had crafted a Whereas clause and read the clause out loud to the council. And spoke about changing the dates of by one year to 2017. Councilmember Piekarski Krech stated her concerns with the Akron Avenue design. Mayor Tourville and Councilmember Hark expressed concern over the possible downside of pushing the project back by a year and losing the city's leverage. Mr. Thureen stated that the county has not finalized the study on Akron Avenue. Councilmember Hark asked what the consequence is if the city does not approve the CIP. Mr. Lynch stated that the projects would get dropped from the CIP and they may or may not come back on the CIP for many years. Councilmember Bartholomew stated that the city will need to bring forward an approval of the CIP with changes so they are not backed into a corner. Mayor Tourville summarized the need for the approval of the CIP with the contingent language read by Mr. Thureen.

**Motion by Hark, second by Bartholomew to approve the CIP with the additional contingency language.**

**Ayes: 5**

**Nays: 0          Motion carried.**

#### **5. PUBLIC COMMENT:**

Two letters from Allan Cederberg and one letter from Edward Joseph were officially accepted. Mr. Lynch stated that Mr. Cederberg has received responses and Mr. Joseph will receive a response from staff.

**Motion by Piekarski Krech, second by Hark to accept the letters in the record.**

**Ayes: 5**

**Nays: 0          Motion carried.**

#### **6. PUBLIC HEARINGS:**

The Public Hearing opened at 7:38PM. Mr. Lynch summarized the background of the item. Assistant City Attorney Bridgett McCauley Nason presented to the council to consider amending the Inver Grove Heights City Code by Adding Title 4, Chapter 12 Related to Tobacco and Electronic Delivery Sampling Ordinance.

Ms. McCauley Nason discussed that on September 8, 2015 Work Session the City Council provided direction to City Staff to prepare a revised ordinance which would prohibit the sampling of tobacco products at retail establishments within the City and would also limit the sampling of electronic delivery devices to establishments currently in existence within the City.

Councilmember Hark asked if the ordinance has language that states if a business moves location that their still allowed to sample. Ms. Nason stated that the language is on 4-12-2: Sampling Prohibited.

Councilmember Piekarski Krech asked what happens if an existing business expands and adds another location. Ms. Nason stated that the intent was to allow the business to change locations but the ordinance did not specifically address that.

Councilmember Bartholomew asked if the license is a non transferable license could a business owner with the same addresses be grandfathered into that license? Ms. Nason stated that she would have to look into the Dakota County licensing process to see if a license is non-transferable. Councilmember Bartholomew further asked Ms. Nason to see if we can grandfather in those businesses.

Mr. Lynch stated staff recommends not to allow an existing business to sell their business and be able to transfer the license. The more businesses that you allow to sample it creates additional monitoring for city staff. Mr. Lynch recommends reducing the allowed vaping by not transferring the license. This also allows the city stay within the regulations of the Indoor Clean Air Act.

Mayor Tourville stated other cities are allowing sampling but with non nicotine products. Ms. Nason stated that that staff had concerns over enforcement, specifically the difficulty with enforce sampling of would not non-nicotine vs. nicotine juices.

Councilmember Hark, stated that the grandfathering in a business is a compromise. If someone sells their business they shouldn't be grandfathered in to continue to sample the products.

Attorney Mr. Kuntz stated that the license should end with the entity. But posed the question to the council that if the entity is an LLC or business does that mean that if the majority of the business sells it would lose its license. Councilmember Hark stated it would have to. Mr. Lynch stated that the license process starts with the new owner and is non transferable. Councilmember Mueller stated his concern for the business owner to sell their business in the future.

Councilmember Bartholomew stated that we should keep it as simple as we can and allow for the grandfathering of the business. Mr. Kuntz asked if the grandfathered retail establishment has the right to a second retail establishment. If the answer is no, then language needs to be added so it is understood. Mayor Tourville stated that an existing business cannot expand the business location to another location.

**Motion by Batholomew, second by Hark to accept the first reading of the ordinance.**

**Ayes: 5**

**Nays: 0          Motion carried.**

## **7. REGULAR AGENDA:**

### **COMMUNITY DEVELOPMENT:**

**A. XCEL ENERGY; Consider the following requests for property located at 10326 South Robert Trail:**

- a) A Resolution relating to a Conditional Use Permit to construct a 3,200 square foot building.**
- b) A Resolution relating to a Variance from exterior building material requirements**

Community Development Director, Tom Link presented the items. Mr. Link stated that the applicant is requesting a conditional use permit to add a 3,200 square foot building to the Xcel Energy Wescott campus. The building would be located on the east side of the 150 acre property. He stated that there is also a variance being requested for the exterior building material requirement to allow steel siding to match the existing buildings on the property. Mr. Link stated that the construction of the 3,200 square foot building requires a 4/5<sup>th</sup>'s vote. The proposed building meets and exceeds all setback requirements. The request meets the CUP criteria relating to the Comprehensive Plan and zoning consistency. Planning staff and the Planning Commission recommended approval of the Conditional Use Permit and Variance.

Mayor Tourville discussed the visibility of the new business and emphasized that he supports the steel siding because its not visible to the public. Xcel representative, Jake Sedlacek, 10326 South Robert Trail stated that he understands that each variance is approved by its own merit.

**Motion by Piekarski Krech second Mueller to approve Resolutions a) and b).**

**Ayes: 5**

**Nays: 0          Motion carried.**

## **8. MAYOR & COUNCIL COMMENTS**

Councilmember Hark stated that he attended the Fire Department open house and commented that it was well attended and that he learned a lot.

Mayor Tourville reminded residents to remember to change their batteries of the fire monitors.

Mr. Link is scheduling meetings for the October 28, 2015 to discuss the NWA Fees.

**9. ADJOURN:** Motion by Piekarski Krech, second by Bartholomew to adjourn. The meeting was adjourned by a unanimous vote at 8:05p.m.