

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, MARCH 28, 2016 - 8150 BARBARA AVENUE**

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

The City Council of Inver Grove Heights met in regular session on Monday, March 28, 2016 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 and Police Chief Stanger.

**3. PRESENTATIONS:**

**A. New Police Officer Introductions**

Police Chief Stanger presented the new Police Officer's to the Council Lucas Atzmilller, Jacob Fliehr, Joseph Steinberg-Hoffman.

Mr. Stanger discussed the commendations for medal of honorable ribbons. Commendations are for duties performed while under personal danger from the October 22, 2016 incident. Mr. Stanger summarized the incident. He introduced the recipients as Officers Ryan Rose, Brandon Kelting, Tyson Rainey and Sergeant Jeff Lundblad. Not present but received a commendation as well was Sergeant John Daniels. The medal of honorable ribbons will be worn on their uniforms.

Mayor Tourville stated that the situation ended peacefully but if done differently it could have turned out worse. He thanked those officers who put the lives on the line.

Mayor Tourville read a statement from the Fire Department. A reminder from the DNR, there is no burning in effect until the end of April. You must apply for a burning permit through the Fire Department.

**4. CONSENT AGENDA:**

**A.**

- i. Minutes of February 22, 2016 City Council Meeting Minutes
- ii. Minutes of March 7, 2016 Work Session Meeting Minutes

**B. Resolution 16-48** Approving Disbursements for Period Ending March 23, 2016

**C.** Consider Approval of **Resolution 16-49** the Acquisition of Property at 6140 Doffing Avenue

**D.** Consider Approval of the City Administrator Salary Adjustment

**E.** Consider Approval of Joint Powers Agreement with Dakota County for the Mendota/Lebanon Regional Trail in the Blackstone Vista Subdivision

**F.** Consider Approval of Contract for VMCC Roofing Project

**G.** Consider Approval of Proposal from Friends of the Mississippi River for Heritage Village Park & Swing Bridge Park Restoration Work

**H.** Consider Approval of 2016 Tree Replacement Plan

**I.** Consider Reclassification of Park Superintendent Position

**J.** Municipal State Aid Street System Adjustments **Resolution 16-51**

**K.** Consider Revision to Approved Capital Equipment Acquisitions for 2016

**L.** Authorize the City Administrator to Discuss with Property Owner an Identified Site of the New Fire Station and Proceed with Appraisal

**M.** Personnel Actions

**Motion by Bartholomew, second by Hark, to approve the Consent Agenda 4.A- 4.Q, 4C. was pulled by Councilmember Mueller.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Consent Item 4C. was pulled from the agenda by Councilmember Mueller.

Councilmember Mueller asked about the acquisition of 6140 Doffing Avenue. He stated he thought there were conditions that would increase the price of the property. Mr. Link stated that the conditions will not effect the price of the property. He stated the acquisition price in a compromise between the appraised values. The conditions are the storage buildings with a setback variance and a conditional use permit which will come to council for consideration next month. There is also condition regarding the flood plain. It reduces that effort of the city to reduce the flooding. It's a cost savings to the city. The documents provide legal protection to the city.

Councilmember Mueller asked about the septic, sewer and hazardous waste. Mr. Link stated it's connected to sewer system, there is no septic system and it passed Phase 1 so it doesn't have hazardous waste. The cost is the purchase of the property and demolition of the building/garage. Phase 1 came back fine. Councilmember Mueller asked if there will be a phase 2. Mr. Link stated no it passed phase 1.

Councilmember Piekarski Krech stated she thought there was no consensus on the price. Mr. Link stated that there were four discussions on this property at past council meetings. He outlined to the council on the steps that were completed. Mayor Tourville stated we had numerous discussions Councilmember Piekarski Krech stated there wasn't an agreement on price and doesn't see the value in purchasing the property. Councilmember Bartholomew asked if there are meeting minutes of the executive session that discussed the topic. Mr. Link replied that he would assume so.

Mr. Link stated that there is no cost to the city on this acquisition. The cost is coming from the DNR hazard mitigation grant and CBGD. All the cost for the appraisal, Phase 1, the demolition and acquisition are paid for.

Councilmember Piekarski Krech asked if we will not pay for the demolition.

Mr. Link stated that part of the condition was that the funds were available to the city.

Councilmember Mueller discussed pumping of the pond, and if the street would be bothered. Mr. Link stated the building will be built by flood standards. When there is flooding the building is not protected. It's entirely there responsibility. Mayor Tourville stated that is how it is now, but before we would have had to protect the building. Mr. Link concurred. The only time we have to pump is to get vehicular access to the marina which is set at a certain elevation.

City Administrator Mr. Lynch clarified we do tape record executive sessions. But we don't provide the minutes. We have an audio of the tape which can be reviewed. I wanted to make sure we have the same understanding.

Mayor Tourville stated it's coming out of the flood plain funding and we won't have to take the emergency action of the flooding.

**Motion by Bartholomew, second by Mueller, to approve Resolution 16-49 to approval the acquisition of property at 6140 Doffing Avenue.**

**Ayes: 5**

**Nays: 0          Motion carried.**

**5. PUBLIC COMMENT:**

**6. PUBLIC HEARINGS:**

**A. Public Hearing on Special Assessment for 2015 Nuisance Abatement Program**

The Public Hearing opened at 7:18 PM.

Community Development Director, Mr. Link summarized the item. This is an annual hearing he stated. We have 157 violations last year of either long grass or refuse. We bill those costs back to the homeowner. We only have 18 unresolved cases. 90% of the property owners take care of it or they pay the city for the costs incurred by the city taking care of the violation. If the city takes care of it then the City invoices for the cost. 10% are those that received 4 invoices. Staff recommends approval of the assessment. Mr. Link noted that one of the violator have paid, which changes it from 19 properties to 18 properties.

Councilmember Hark asked about procedure and whether another notification would go out to the property owner.

Mr. Link replied that one more notice will go out tomorrow and they are given 30 days. Then the assessment will go to the assessment division with the County and is recorded on the property. Councilmember Hark asked if it will show up on the tax statement. Mr. Link stated in affirmative.

Councilmember Bartholomew asked about the 1 person that paid late, does the resolution reflect payment. Mr. Link stated they will make sure it's not recorded.

Mayor Tourville asked which one paid. Mr. Link stated, 7840 Barbara paid their amount for graffiti removal.

**Motion by Bartholomew second Hark to approve the Special Assessment for 2015 including the closing of the hearing at 7:23PM.**

**Ayes: 5**  
**Nays: 0**      **Motion carried.**

**B. Public Hearing to Consider Application for New Owners of the Established Off-Sale Liquor License of H&K Corporation d/b/a Market Liquor, 5866 Blaine Ave E.**

The Public Hearing opened at 7:24PM. City Clerk Tesser summarized the item. Market Liquor submitted an application for an off sale license. Ms. Tesser stated that this is technically a new license since a license cannot be transferred. Market Liquor has sold their establishment and the new owners have passed the criminal background investigation, they have paid the fee and the certificate of liability has been presented to the city so there are no bases for denial.

**Motion by Piekarski Krech second Hark to close the hearing at 7:25PM.**

**Ayes: 5**  
**Nays: 0**      **Motion carried.**

**Motion by Piekarski Krech second Bartholomew to approve the Market Liquor Off- Sale Liquor license.**

**Ayes: 5**  
**Nays: 0**      **Motion carried.**

**C. Public Hearing to Consider New Officer of AMC Theatre Liquor License**

The Public Hearing opened at 7:26 P.M. City Clerk Tesser summarized the item. She stated that this will amend a corporate officer of the AMC Theatres license. The Police Department conducted the background and found no basis for denial of the application.

**Motion by Piekarski Krech second Hark to close the hearing at 7:26PM.**

**Ayes: 5**  
**Nays: 0**      **Motion carried.**

**Motion by Piekarski Krech second Bartholomew to approve the new officer of the AMC Theatres liquor license.**

**Ayes: 5**  
**Nays: 0**      **Motion carried.**

**7. REGULAR AGENDA:**

**ADMINISTRATION:**

**A. Consider Approval of Community Solar Garden Contracts with Solar Stone Partners Xcel Energy was not involved in the process. Resolution 16-52**

Mr. Carlson, Parks and Recreation Director summarized the item. This item was before the council at an earlier date. Staff is looking for approval of the number of contracts. Mayor Tourville asked about the companies that were proposed. Xcel and Metro Council know the companies that would be formable to provide these services. Mr. Carlson stated he believed it was Metro Council, City of Minneapolis and Ramsey County and a non-profit organization that partnered with the RFP and vented the companies. They negotiated back and forth on the proposals they believed were worthy of negotiations and the contract is before us today. He stated the terms and conditions cannot be changed. Also, other companies not considered cannot be used as part of the agreement. We could choose to not participate in the group and do our own proposal and accept RFPs then negotiate the contract. Mr. Carlson stated he was not aware of Xcel Energy being apart of the process.

Mayor Tourville stated some cities have not gone with the agreement because the companies have little staff . But the County stated if they don't perform than there are rights to get out of the contract. Mr. Carlson stated that there is no risk on the city's part. Mayor Tourville stated that we gain nothing and don't lose anything. Mr. Carlson stated in affirmative.

Councilmember Hark stated we are asking to make a bet over the next 25 years whether electricity will increase by 1.7% on average over the next 20 years. He stated it's a pretty safe bet. Historically, the cost of electricity will go up more than that.

Mr. Carlson showed the slide that was provided earlier to the council. The cost of electricity is 1.7% is the break even point for us. Over the last 10 years we have paid an average increase of 4.3%. Mr. Carlson stated it is a bet and a risk.

Councilmember Mueller stated he wanted 5 of those tickets.

Councilmember Hark stated he would like 10.

Councilmember Piekarski Krech stated if the rate goes up and we go over 1.7% than we are in the plus. Mr. Carlson stated in the affirmative.

Mr. Kuntz stated there is a period of time that the amount of payment by the city being paid is less than the credit being received.

Mr. Carlson stated in the first six years of the agreements there is a negative cash flow for the city. So we will be paying more for electricity. But over the length of the agreement of 25 years the numbers should be accurate. But in the first few years of all the contracts it is a negative cash flow for the city even if it's over 1.7%.

City Administrator, Lynch stated this is 30% of our energy. We have the ability if the technology changes we can invest the 70% into another technology or provider in the future.

Councilmember Bartholomew stated what is the essentially investment of 1 ticket. Do we pay it up front. Mr. Carlson stated there is no investment on the city's part. There is no cash up front or investment. We are paying more for solar energy than credits received. The cost is a few thousand dollars. Councilmember Bartholomew so for a short period of time we are not writing a check to the city.

Mr. Carlson stated if we sign any agreements we will be writing a check to SolarStone Partners every single year for 20 years for energy we produce and use. Sooner than later we get a credit and the check we provide will be larger than the payment.

City Administrator, Lynch stated for each kWh we are writing a check. Councilmember Piekarski Krech stated only when they are producing. Mr. Carlson stated we are not paying upfront capital cost for getting solar panels installed. We are paying for solar energy produced by the panels. We are writing a check to Solar Stone Partners for the energy. If we produce nothing we don't write a check.

Councilmember Piekarski Krech stated if they produce less than what happens with the credit. Mr. Carlson stated we would receive a smaller credit from Xcel for the credit of the fossil fuel provided. We would get it from the solar panel piece of it. The credit would be smaller than as well if they're not producing what they said. For example, if they have a string of cloudy days than what was greater than the average.

Councilmember Piekarski Krech stated but we paid them for 10 credits. Mr. Carlson stated but only on the electricity produced not a flat fee. It's based on how much energy is produced by the solar plans. Then we receive a credit for that.

Councilmember Hark stated if they produce less electricity isn't their contractual language that states they have to make up the difference.

Councilmember Hark stated that they are guaranteeing 85% of estimated delivery. Mr. Kuntz stated it's in the contract under section 7.4 delivery shortfalls, which per the contract is if they don't meet the threshold. The section is 7.3 and 7.4 that addresses the delivery shortfall. The guaranteed is 85% of the estimated delivery. If they fall below that in section 7.4 then they have to write us a check.

Mayor Tourville stated he agrees with Councilmember Hark to get 10 tickets.

Councilmember Hark stated for a period of time the numbers won't look so good. We understand that. He discussed that he worries that if there are new members on council or short memories of council members they won't know or remember this. He continued to state that the council fully understands that there will

be a period of years that the numbers won't look good. It's a 25 year investment not a three year. Councilmember Hark further stated that he wanted this on the record to be reflective.

Councilmember Hark added we all understand the payoff is the 1.7%. We are making a bet here.

Mayor Tourville stated others will be looking for solar projects and he asked Mr. Carlson to keep an eye on the company and who the cities are that will be approving the tickets. Mr. Carlson responded in the affirmative. Mayor Tourville stated he wanted to know who the partners are with the city.

Mr. Carlson stated that he received a call from a resident who received a letter from Sun Share which is another community solar gardens company. A private individual can sign a contract with the solar provider. But they do not need the city's permission to do so. He stated we as a city are looking for solar gardens on behalf of the city in the electricity we purchase. For those that may be getting marketing material at home. We are not approving the solar contract they are receiving.

Councilmember Hark stated this contract is fairly complicated and that the resident will need to know what they're doing.

**Motion by Hark second Piekarski Krech to approve Resolution 16-52 with 10 tickets.**

**Ayes: 5**

**Nays: 0          Motion carried.**

**B. CITY OF INVER GROVE HEIGHTS: Consider Approval of First Reading of Ordinance Amendment Title 10, Chapter 2 Section 3(D)(2) Zoning Ordinance 1311 Provisions Related to Massage Therapy Businesses**

City Attorney, Mr. Kuntz discussed the past Massage Therapy Ordinance revision. He stated to conform the zoning ordinance with the varies section it references and terminology used. It has now been approved by the Planning Commission to address the zoning terms. It is thought that this ordinance is housekeeping in nature. It addresses the terms that are used in the zoning ordinance to mirror the licensing massage ordinance. He explained that this is in front of you for a first reading to consider this for approval.

Councilmember Piekarski Krech stated she thought the city didn't allow massage therapy in a home residential area.

Community Development Director, Mr. Link stated it's included in the home occupation ordinance. The home occupation license has limits. You must reside on the property, you may not have employees, there can't be visible signs from the outside. There can't be separate access; it has to be through the house. He stated there is a number of a limitations as a home occupation. It has been allowed in the ordinance for some time now. Councilmember Piekarski Krech stated that the majority of cities don't allow a massage license in a home in a residential area.

Mr. Link stated off hand he doesn't know what other cities do. He stated it has been allowed for some time with restrictions. I don't recall that last time we have received a home occupation for a massage therapist. Most if all are in a commercial area.

Mayor Tourville stated that you have to have a massage license and a home occupation license. A lot of city's have reviewed massage licenses because of unlicensed licenses because people are doing it out of other areas like motels, hotels etc.

Councilmember Piekarski Krech stated we should review our city's home occupation license. It doesn't include a tourist home. If you wanted to do a B&B than you could do it. She stated we should look at what we allow for home occupations and home businesses. There are a lot of home occupations in town that no one knows of and that are not regulated.

Mayor Tourville stated I don't disagree with looking at the home occupation businesses.

Councilmember Piekarski Krech stated if the council is happy with this ordinance than I support the ordinance.

Councilmember Hark stated this is housekeeping.

Mayor Tourville directed Mr. Link to look into zoning of residential uses for home occupation businesses. He requested Mr. Link to bring the topic back to Council before the Planning Commission.

**Motion by Hark second Bartholomew to dispense of the 2<sup>nd</sup> and 3<sup>rd</sup> reading of the ordinance change.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Hark second Bartholomew to approve the amended ordinance 1311.**

**Ayes: 5**

**Nays: 0      Motion carried.**

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

Mr. Link discussed that DEED will be coming to the city for reviewing the money spent for the acquisition of the Riverside Co-op. Also, May 15, 2016 is the next due date of the DEED grant, and needs approval by the Council.

Mayor Tourville asked Mr. Lynch and Mr. Kuntz to facilitate the executive session of Dixie Ave. Mr. Kuntz stated there won't be an executive session tonight. Mayor Tourville asked staff to stay on schedule.

**9. ADJOURN:** Motion by Mueller, second by Hark to adjourn. The meeting was adjourned by a unanimous vote at 7:59 p.m.