

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JUNE 27, 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, June 27, 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 Fire Chief Thill.

3. PRESENTATIONS: None.

4. CONSENT AGENDA:

- A. Minutes of June 6, 2016 Work Session Meeting
- B. Resolution **16-110** Approving Disbursements for Period Ending June 22, 2016
- C. Notification of Required Contribution to the Inver Grove Heights Fire Relief Association for 2017
- D. GERTEN GREENHOUSES; Consider a Resolution Relating to Approving the Improvement Agreement and Related Agreements for the Gerten Greenhouse Growing Field Expansion **Resolution 16-111**
- E. Consider a Swap Spot program at the City of Inver Grove Heights
- F. Designate 2016 Election Judges for August 9, 2016 and November 8, 2016 Elections **Resolution 16-112**
- G. Schedule Election Canvass Meeting
- H. Approve Facility Use Agreement with ISD 199 for the VMCC/Grove
- I. Consider Pay Voucher No. 1 for the 2015 Capital Improvement Program, City Project No. 2015-13 – NWA Trunk Utility Improvements, Argenta District (70th Street Lift Station to Blackstone Ridge) and 2015-16 – Trunk Utilities, Argenta Trail to Blackstone Ridge
- J. Consider Change Order No. 2 for City Project No. 2016-09D – 60th Street Area Reconstruction, City Project No. 2016-10 – 60th Street Area Utility Improvements, and City Project No. 2015-12 (Phase 1) – NWA Trunk Watermain Improvements, 65th Street Loop (Argenta Trail to Babcock Trail)
- K. Consider a **Resolution 16-113** Ordering a Feasibility Study, Ordering an Assessment Benefit Analysis and Other Related Engineering Services for City Project No. 2016-09E – Bancroft Way Area Street Improvements
- L. Consider Resolution Approving Agreement Relating to Landowner Improvements within City Right-of-Way Located on Lot 1, Block 1, Schindeldecker Second Addition (1730 60th Street E.) **Resolution 16-114**
- M. Consider Proposal for Professional Services for Design and Construction Phases for Foresthaven Sanitary Sewer Lift Station Modifications
- N. Approve Letter of Support for Dakota County Regional Solicitation Application
- O. Authorization to Execute the State of Minnesota Joint Powers Agreements with the City of Inver Grove Heights on behalf of its Police Department regarding the Minnesota Internet Crimes Against Children Task Force (ICAC) **Resolution 16-115**
- P. Accept 2016 Donations for Various Parks and Recreation Programs
- Q. Personnel Actions

Councilmember Piekarski Krech pulled item 4A. Councilmember Bartholomew pulled items 4E and 4G. Mayor Tourville pulled item 4M.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Piekarski Krech asked why Item 4A Work Session Minutes was only briefly summarized. She stated that the Council minutes are the official minutes for the Council and expressed concern if that was the format going forward. City Administrator Mr. Lynch, replied that at the meeting we had a technical

malfunction of the voice memo recorder therefore staff summarized their own items. He stated this is not the format you will continue to see. Councilmember Piekarski Krech asked that a secondary machinery be present to make sure this doesn't occur again. She expressed concern that the minutes are a legal document and the importance of the minutes. Mr. Lynch stated that the third party minute taker will be present at meetings to prevent this from occurring in the future.

Councilmember Bartholomew pointed out an error on page 4 with the adjournment. Councilmember Hark stated he seconded the motion to adjourn.

Motion by Piekarski Krech, second by Bartholomew, to approve 4A with adjournment correction.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Bartholomew discussed the importance of item 4E Swap Spot and commended staff for their work and Councilmember Hark for bringing this issue forward.

Motion by Bartholomew, second by Hark, to approve item 4E.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Bartholomew brought forward the Canvass meeting schedule. The Council agreed on changing the time to 8:00a.m.

Motion by Bartholomew, second by Hark, to approve item 4G with the time change.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville asked to abstain from item 4M because SEH was chosen as a contractor.

Motion by Bartholomew, second by Piekarski Krech, to approve item 4M.

Ayes: 4

Abstain: Mayor Tourville

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

Allan Cederberg, 1162 E 82nd Street, commented on his water bill. He discussed a letter with no date, the date the letter received was 1/12/16 and the payment was due on 1/20/16. The bill only gave him 8 days to pay. Mayor Tourville stated the letter is an invoice not a letter. He asked for an explanation of the bill. Mr. Cederberg brought up the storm sewer fee. The Council discussed with the resident at length regarding the designation of zoning and storm sewer fee. Resident Mr. Cederberg asked for the City Attorney's opinion. Mayor Tourville stated that the City Attorney will not state his opinion because this item is not on the agenda. The Council directed Mr. Cederberg to make an appointment with City Administrator Lynch to discuss the issue further and put it to rest.

6. PUBLIC HEARINGS:

None.

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

A. SYDNEY & JOSHUA WITTMIER; Consider a Resolution 16-116 relating amending the conditions of approval and the development contract for Shamrock Oaks to allow Lot 4 to contain more than 5,000 square feet of impervious surface.

Mr. Link summarized the item. The applicant is requesting an amendment to this condition to exceed the allowed impervious surface to construct a new house, driveway and some extra impervious surface for future additions to the property. Mr. Link discussed the changes and the impervious surface request. The applicant is proposing a storm water facility on the northern part of the property to treat the impervious surface. The Engineering Department reviewed the proposal and found that it complies with the criteria. Mr. Link noted that the 5,000 square feet in the southern part of the City would typically be allowed 1,600 square feet. It's typically allowed three times as much. He stated that the Planning Staff and the Planning Commission have approved the item with the impervious surface of 5,000 square feet.

Councilmember Piekarski Krech asked why 5,000 square ft was a concern. Mr. Link stated there was a concern from a nearby neighbor to the North regarding the impervious surface.

Councilmember Piekarski Krech asked if the neighbor continues to object. Mr. Link replied that the neighbor was given notice of the Applicant's request. He stated to date, we have not heard from the neighbor.

Public Works Director Mr. Thureen, stated that the proposal has storm water features to compensate for the additional hard surface. Councilmember Piekarski Krech asked if we know it can handle that. Mr. Thureen replied in the affirmative.

Josh Wittmier, 2122 94th Court East, The applicant stated that the feature has already been designed and will be 8,000 square feet to go along with the custom grading plan to reflect the requirements.

Motion by Bartholomew second Hark to approve the Resolution 16-116 consider a Resolution relating amending the conditions of approval and the development contract from Shamrock Oaks to allow Lot 4 to contain more than 8,000 square feet of impervious surface.

Ayes: 5

Nays: 0

Motion carried.

B. KATHLEEN VAN SCHOOTEN; Consider the following actions for property located at 10371 Inver Grove Trail:

a) an Ordinance Amendment to Rezone a portion of the property from A, Agricultural to I-1, Limited Industry

b) a Resolution relating to a Comprehensive Plan Amendment to change the land use designation of a portion of the property from RDR, Rural Density Residential to LI, Light Industrial

Community Development Director Mr. Link, briefly discussed the item. The property is located west of Highway 52 just north of 105th Street. The property is six acres. The applicant would like to subdivide one

acre and rezone it from Agricultural to Industrial. The applicant would sell the property to her daughter to start a Landscaping business. Mr. Link discussed the possible road that would go through the property.

The rationale to support the application is that there are industrial properties to the North and the East. The property has frontage and access of Highway 52. There have been discussions about a frontage road going in that would provide direct access to the property. The other access is 105th Street. The road is designated as a connector street that has more drivers than a neighborhood street. It would provide economic development and increase the tax base. The argument against the property has been made by several neighbors. There was a public hearing and concerns from residents were expressed. Mr. Link pointed out on the map that there are residents in support of the zoning amendment.

Planning staff and Planning Commission denied the variances. He discussed the issues with the access of 105th through the residential neighborhood.

Councilmember Mueller asked about the adjacent property named Jeffers and is zoned Agricultural. Mr. Link stated the Jeffers property has a conditional use for the slandering facility and is zoned Agricultural. Mr. Link disused the hardships of developing a frontage road near the property because of the adjacent railroads on the North and South of the property. Mr. Link mentioned there has been no commitment from MnDOT for the road. Mr. Link said right now the frontage road is just a concept.

Kathleen Van Schooten, 10371 Inver Grove Trail discussed the context of the property. She discussed the reputation of the family business named Branch and Borough. She discussed that the traffic would be only three (3) trucks per day. She commented about the zoning on the future land use map and asked about it being light industrial zoned. Mr. Link stated in the affirmative, I-1 limited industry. Mr. Link discussed what types of business uses would be allowed in those areas.

Councilmember Hark asked to look at the map to indicate where the light industrial section is. Councilmember Bartholomew stated the City has a definitive decision on designated light uses. Mr. Link stated he will look at the map to determine the designation.

Heidi Van Schooten and Andy Hovland, 589 Ohio Street, St. Paul, MN. The Applicant's daughter and son in law were present and discussed conversations and meetings with the Planning Staff. During that conversation Heidi Van Schooten stated the hardships of receiving a variance was not discussed with them. She discussed the option of the conditional uses and allowable home occupation businesses around the City. She discussed their tree care business and that it's not a landscaping business. She stated the employees go to the customer's houses. They discussed their wishes of not be visible from the road and no sign would be present. Andy Hovland stated that no customer's will be going to the property. They stated it's a place to put equipment and for staff to come and go. She stated their wish is for three bays to store vehicles and an office area.

Mayor Tourville asked about the zoning of landscaping businesses to Mr. Link. Mr. Link stated that landscape businesses are considered contractor's yards and are not allowed in residential zones and agricultural zones. Councilmember Piekarski Krech commented that other home occupation businesses of landscaping contractors are able to have businesses out of their home. Mr. Link stated if that is occurring than they are in violation of the ordinance. Mayor Tourville asked for clarification regarding landscaping businesses. He stated if landscaping businesses are getting calls to their home but are going out to other people's homes to care for lawns then they're in violation of the ordinance. Mr. Link replied it

depends on the specifics. Mr. Link stated home occupations are allowed but if you're working out of your garage than it's prohibited. Mr. Link stated you can have a home occupation business inside the home.

Councilmember Bartholomew asked about a possible Interim Use in this case. He discussed the possibility of the future frontage road. Andy Hovland discussed the possible use of 105th street and how he would be willing to help fund maintenance of the road. He stated all his work trucks are under weight and do not require a CDL. Mayor Tourville stated the issue is that the rezoning will stay with the property. The Applicant's daughter discussed their willingness to look at alternatives with the Council. Their need is for them to be able to be on the property on a more consistent basis to watch over her mother. Her mother wishes to stay on the property as she ages.

The Council discussed the item at length discussing the different zones.

Mr. Link discussed what is considered agricultural and the difference between a contractor's yard and an agricultural zone.

David Fleischaker, 10300 Brent Avenue opposed the change and asked the Council to look at the impact of the neighborhood when adding a business. He stated the intersection at 105th Street is dangerous.

Bob Malcome, 3175 105th Street, asked to support the project. It would be a good project for the community and doesn't think it will have any problems.

Heidi Van Schooten discussed the landscape business zoned in B-3. Mayor Tourville discussed that B-3 is connected to sewer and water.

Mr. Link asked for Heidi Van Schooten and Andy Hovland to come into the City for a meeting to discuss options.

Councilmember Bartholomew reiterated that it's permitted by Conditional Use. Mr. Link stated that the use is a business with six employees and three trucks. The contractor zones are not allowed in a residential type business. The property must be zoned agriculturally.

Councilmember Bartholomew discussed the possibility of an Interim Use but that in the current state of 105th Street it is not feasible.

Councilmember Hark opined that if an Interim Use was approved than the building may not be able to financed. He stated that the problem is that the acre is zoned industrial permanently.

Mayor Tourville stated it would need to be rezoned to be able to get approval. He asked if the applicant wanted to withdrawal or receive a denial.

Mayor Tourville moved to approve the Resolution for denial seconded by Councilmember Hark. Mayor Tourville then rescinded the motion and Councilmember Hark agreed to rescind.

Applicant Kathleen Van Schooten asked to withdrawal the applications.

The Council asked for staff to work with the applicant regarding the partial refund of the application.

The Council directed staff to let the Council know at a future meeting what staff’s recommendation was on the partial refund then Council will approve the partial payment.

Motion by Piekarski Krech second Bartholomew to accept the withdrawal of the application by the Applicant.

Ayes: 5

Nays: 0 Motion carried.

C. CITY OF INVER GROVE HEIGHTS; Consider the following actions for property located at 7293 Archer Trail;

a) a Resolution 16-117 relating to the Preliminary and Final Plat for Blackstone Vista 2nd Addition

b) a Resolution 16-118 relating to Vacation of certain drainage and utility easements with the plat of Blackstone Vista.

Mr. Link introduced the item. The Outlot G will be dedicated as a road right of way for 72nd Street which will be built as part of Hwy 55/Argenta Trail project. Mr. Link identified the area on the map. He stated its advantageous to the City because we will attain the right of way and its advantageous to the Developer because he gets a widened back lot. The Planning Staff and the Planning Commission recommends approval of the Plat.

Motion by Bartholomew second Piekarski Krech to approve the Resolution 16-117 relating to the Plat and Resolution 16-118 relation to the drainage and utility.

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; Consider a Resolution 16-119 relating to a Variance from the maximum fence height to allow netting 50 feet tall around the practice range at Inver Wood Golf Course.

Mr. Link introduced the item. He stated the netting around the driving range is a normal use. The net is a safety prevention and will protect residents from golf balls being hit. There are no other alternatives to netting available because of the size of the driving range. Planning Staff and Planning Commission approved the variance.

Mayor Tourville stated that it’s a 50 foot fence and the netting was a part of the Request for Proposal (RFP) for the Golf Course Improvements.

Councilmember Bartholomew asked if the netting is in the aviation overlay. Mr. Link discussed the aviation flight zone requirement with the Council and stated that this variance doesn’t meet the maximum height of the requirement. Councilmember Bartholomew added that the aviation flight zone height is 90 feet.

Motion by Bartholomew second Hark to approve Resolution 16-119.

Ayes: 5

Nays: 0 Motion carried.

E. CITY OF INVER GROVE HEIGHTS; Consider First Ordinance Reading of Rental Licensing Program

Mr. Link briefly discussed the rental ordinance program which is the first reading of the rental licensing ordinance. He stated if this proceeds it will be one of three readings. He discussed that the license would require all licenses to be considered including large apartment complexes to single-family homes. He stated it would be a two year license requirement for a fee of \$25.00. The applicants will be required to have a criminal background check by the Minnesota Bureau of Criminal Apprehension (BCA). Inspections will need to meet the International Property Maintenance Code. An existing staff member will be used for inspections. Inspections would be reactive only and would require complaints. Some facilities would be exempt such as: nursing homes and assisted living facilities. Public notices were sent out in March. An article was put into the City's newsletter as well as the City's website. Mr. Link stated that comments were received for six (6) weeks, in total 1/3 opposed the ordinance. One response was received an opposition from a rental owner. The Association of Multi-Housing represents apartment buildings state-wide and apartment buildings in Inver Grove Heights. Marty McDonough representing the Association of Multi-Housing wrote a letter; Mr. Link stated the letter was included in the packet for today's meeting. Mr. Link met Mr. McDonough and discussed his concerns and reaction to the ordinance.

Mr. Link stated prior to this meeting, 26 rental owners were notified which prompted concerns over the structured fees and background checks. Mr. Link estimated that the cost of the program would be \$80,000. Divided by the number of rental units that will be required is 3,300. Those numbers together identified the fee cost as \$25.00.

Mr. Link stated the larger complexes have an excess of 400 units and would be charged a fee of \$10,000 every two years. The fees are comparable to other surrounding cities. The fee comes out to \$1.00 per dwelling unit per month.

The rental owners and the Association of Multi Housing have other ideas regarding fee structures. The background is important, the less costly way is for the property owner to go to the BCA and get a criminal history check. The BCA would give them a letter and it would be reviewed with a Police Chief similarly to how the liquor license process works. The ordinance will stipulate what considerations the Police Chief would look at which would include criminal convictions over the last five years.

Mayor Tourville discussed the complexities with an apartment owner being a non-profit, financial institution and/or out of State Corporation. Staff discussed with the City Attorney and asked for this issue to be explored further.

Mr. Link stated that staff recommends that it be a phased in program. He asked that the actual licensing begin once the software is set-up. Mayor Tourville discussed the possibility of the program beginning in January of 2017.

Councilmember Hark asked to look into other software programs that other cities are using. Mr. Link replied that staff has compared the software programs and the cost of the programs vary from \$45,000-\$125,000. Mr. Link concluded the introduction of the first reading and stated that staff recommends the approval of the first reading of the ordinance.

Councilmember Piekarski Krech stated that residents are asking for attention to the cost of the fee schedule. She stated she doesn't want to overburden individuals that are renting. She asked that the staff be judicious. She also discussed the main concerns from residents is the actions taking place in these buildings. She stated there is nothing in the ordinance that discusses checking the background of the tenant. Mr. Link replied that this program is for building and safety concerns and does not regulate behavior. He stated the fee needs to represent the cost of the program per Council's recommendation. He discussed the alternatives with the difference of fee by license and then fee per dwelling unit. The Council selected the fee to be based on per dwelling unit.

Mr. Link stated that the Council has the decision, if the City should pay for the program outside of the fees collected or whether the fees will be covered by the program cost.

Councilmember Piekarski Krech asked Mr. Link if you have 400 units would you go there once or twice. She opined that there should be some cost savings within the larger apartment complexes. Councilmember Hark responded that if it's a complaint driven system we can't stay that. Mayor Tourville stated that the City must adopt an ordinance for rental properties but some refinement might need to be done as we proceed further.

Mr. Link discussed the different options of fees. Councilmember Hark asked if a complaint can be done anonymously. Mr. Link responded yes.

Councilmember Bartholomew stated we are contemplating fines for code violations. Mr. Link stated the enforcement would be like other complaints. Mr. Link stated a citation would be issued if a violation isn't received.

John Reilly representing Salem Green Apartments came forward. He stated with the background check requirement of the owners, it won't work the way it's currently written. With three apartment buildings you have over 2,000 are owned by those affiliated with Multi-Housing Associations. Mr. Reilly stated he's not opposed to the rental license program. He said he felt that the fee schedule punishes the larger apartment owners. He stated that currently two inspections are done annually that include the Insurance and Mortgage Company who have a vested interest in making sure the building is up to code.

Marty McDonough, Municipal Affairs Director for Multi-Housing Association, Mr. McDonough stated he represents over 3,000 units. He stated we educate owners of rentals regulations and on how to run a business. He discussed the difficulty of receiving owner background checks. He went over the fee structure from municipalities for the building and the small amount per units. He went thought the unit costs per city including Maple Grove, Burnsville and Minneapolis. He explained the City of Minneapolis process as a tiered structure based on the activity of problematic issues. Minneapolis has 25,000 rental units.

Mayor Tourville stated that other cities do have background checks and asked Mr. McDonough to help with the ordinance language. He discussed the out of state background checks in length.

Councilmember Hark asked about the tiered system. He asked what are examples of objective criteria. Mr. McDonough stated conduct on premise, verifiable police call. He stated a management plan would be required. There are seven ways to convict a person, housing inspections administrative citations and

illegal occupancies. He discussed the score and stated it's divided by 20% of the units. An annual review of the scoring is done first.

Mr. Link stated that the tiered system is staff intensive and would take up administrative and police time. He stated with a tiered system the Department would need additional staff to administer the program.

The Council discussed moving forward and working with Multi-Housing Association.

Resident Nadine Hunziker, 5039 Brent Ave. discussed a blighted rental house on her block. She described several criminal activities that occurred at the rental house since she moved into the neighborhood. She supports the rental housing program.

Resident Linda Danely, Stevensend Management Gracestone Apartments discussed the background checks in regards to trustees. She added that what they do is background checks on staff. She stated that staff attends the Annual Fair Housing and Multi Housing Association seminars yearly.

The Council directed staff on looked into a more defined language on the background check and the look at different fee structures. The Council stated that they are not looking at the ordinance to return to the Council until its ready.

Motion by Piekarski Krech second Bartholomew to approve the first reading of the ordinance.

Ayes: 5

Nays: 0 Motion carried.

II. ADMINISTRATION

F. CITY OF INVER GROVE HEIGHTS; Consider a Resolution 16-120 Establishing Trash Hauling Moratorium

Mr. Kuntz discussed a prior conversation with the Council at the June 6th Council Work Session regarding studying the questions on how many licenses should be in the City. Currently, there are 17 trash hauling licenses. Mr. Kuntz stated that this Resolution imposes a hold period on the issuance which is a moratorium, until a study is completed on the number of license issued. The study will be completed by the Administrative Department and returned to the Council on the study results on August 8, 2016. It makes no determination at this time if there should be a limitation on the number of licenses.

Motion by Piekarksi Krech seconded by Bartholomew to approve Resolution 16-120.

Ayes: 5

Nays: 0 Motion carried.

III. PUBLIC WORKS

G. CITY OF INVER GROVE HEIGHTS; Resolution 16-121 Approving Change Order No. 5 to City Project No. 2015-10 to Complete Emergency Storm Sewer Repair on Dawn Way

Mr. Thureen discussed the issues down the hill onto Dawn. The water is coming on top of the sewer coverage. The damage is severe. The manhole needs to be replaced. The street has been analyzed and the drainage boundaries have been identified. A portion to be added a parallel pipe to be proposed on the north blvd we suggest we construct the structure to be rebuilt. 200 feet in a diameter would be

replaced and the structure. This is an emergency condition and the damage is on the north part lane. He discussed the contractor's ability to repair this and start on July 5th. Fund 406 will cover the expense.

The Council asked for this to be fixed and not band aid this. Mr. Thureen stated he will double to occupy of the storm sewer and the catch basin won't be blown off which what has been happening.

Councilmember Mueller asked about the entire street. Mr. Thureen specified that this is for the northern part of the street.

Councilmember Mueller asked if it would be cheaper to fix the entire street now. Mr. Thureen stated no, the City would need a joint powers agreement with South St. Paul and it would take time to do that.

Motion by Bartholomew second Hark to approve the Resolution 16-121.

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS

Mr. Link asked for an Economic Development Authority (EDA) special meeting to be scheduled on Monday, July 11th 2016 at 6:30pm to consider a purchase agreement.

Motion by Mueller second Piekarski Krech to approve the scheduled meeting.

Ayes: 5

Nays: 0 Motion carried.

Mr. Lynch stated that on July 4th the City Hall is closed. He reminded the City Council regarding a special joint meeting on July 12th 2016 with the School District at 6:00pm.

9. ADJOURN: Motion by Piekarski Krech, second by Bartholomew to adjourn. The meeting was adjourned by a unanimous vote at 10:00 p.m.