

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, SEPTEMBER 26, 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, September 26, 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, Human Resource Manager Shefchik and Public Works Director Thureen.

**3. PRESENTATIONS:**

**4. CONSENT AGENDA:**

- A. i. Approval of City Council Meeting Minutes August 22, 2016
- ii. Approval of City Council Work Session Minutes September 6, 2016
- B. Resolution 16-161** Approving Disbursements for Period Ending September 21, 2016
- C.** Consider Pay Request #5 for the VMCC/Grove Energy Improvement Project(s) – City Project 2016-06
- D.** Consider Pay Request #1 for the Inver Wood Golf Course Improvement Project – City Project 2016-07
- E.** Consider Pay Request #4 for the VMCC Roofing Project - City Project 2016-14
- F.** Consider Approval of Purchase of Lions Trophy Case
- G.** Consider Approval of Agreement Relating to Certification of Amount Owed
- H.** Set Special Meeting for October 24, 2016 to Discuss Akron Avenue/Southern Road Alignment
- I.** Consider Change Order No. 6 and Pay Voucher No. 10 for the 2015 Capital Improvement Program, City Project No. 2015-10 – NWA Trunk Utility Improvements, Argenta District (Alverno to Blackstone Vista Development) and City Project No. 2015-11 – NWA 70th Street Lift Station, Argenta District **Resolution 16-162**
- J.** Consider Pay Voucher No. 4 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
- K.** Final Compensating Change Order No. 1, Final Pay Voucher No. 1, Engineer's Final Report, and **Resolution 16-163** Accepting Work for City Project No. 2016-09B – Sealcoat
- L.** Consider Pay Voucher No. 3 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)
- M.** Accept Proposal from Total Control Systems, Inc. for Foresthaven Sanitary Lift Station Modifications
- N.** Approve Proposal for Professional Services for Feasibility Study for City Project No. 2016-19 – 65th Street between Trunk Highway 3 and Babcock Trail
- O.** Consider **Resolution 16-164** Approving Agreements (Agreement Relating to Landowner Improvements within City Easement, Retaining Wall Maintenance Agreement and Fire Hydrant License Agreement) on Lot 3, Block 1, Bishop Heights 4th Addition (Caribou Coffee)
- P.** Approve **Resolution 16-165** for a 2-Year Contract Renewal Agreement with HealthPartners for Health and Dental Insurance for the Benefit Plan Years of 2017 and 2018
- Q.** Personnel Actions

**Councilmember Bartholomew pulled item 4F. Councilmember Mueller pulled item 4N.**

**Motion by Bartholomew, second by Hark, to approve 4A through 4Q.**

**Ayes: 5**

**Nays: 0          Motion carried.**

Councilmember Bartholomew pulled item 4F. Mr. Carlson, Parks and Recreation Director was present to answer questions. Councilmember Bartholomew stated his concern is in regards to whether the

insurance company will cover the \$8,500 and when we will know that information. He asked if the city does pay then does the trophy case stay with the club or is the \$8500 paid to the club. Mr. Carlson stated the intention is for the \$8500 to replace an actual trophy case hung on the wall at the Community Center near the front desk. He stated the insurance company will cover the loss. The Finance Director recommends that the amount come out of the risk management fund and go towards the deductible. He stated whether the deductible would be reached at the end of the year is unknown. But that is how they will pay for the trophy case. Councilmember Bartholomew asked what the deductible amount is. Ms. Smith, Finance Department Director stated the cumulative amount is \$50,000. She stated in the last two or three years we haven't hit that deductible. Councilmember Bartholomew asked that the item go to the next work session. He stated the City is not 100 percent at fault and that he would like to talk about it in more detail.

Councilmember Mueller stated he was going to let his wife Sharon Mueller discuss the issue since he is the President of the Lions Club and doesn't have the patience to talk. He stated he was quite upset. He stated the memo received was incomplete.

Sharon Mueller, 7800 Boyd Ave E. (Lions Member) stated two cabinets were destroyed. She stated the Lions Club has been in Inver Grove Heights for 50 years. She mentioned the club's merits. She described the trophy cases in detail. She stated the trophy case was displayed at the village shopping center and then moved to the VMCC. She stated that someone destroyed the cabinets and destroyed the memorabilia. Ms. Mueller stated the Lions Club is asking for just one trophy case as a replacement. Ms. Mueller summarized past donations the Lions Club gave to the community.

City Attorney Kuntz asked Ms. Mueller if the Lion Club wants to own the case. Councilmember Mueller stated the Lions Club wants to own the case. He stated he wanted the location of where the case was going to be placed. Councilmember Mueller asked what the building is called. Councilmember Piekarski Krech stated the Grove.

Mr. Carlson reiterated that the case would be place by the Grove's front desk between the front desk and the splash pad. City Attorney Kuntz asked who is going to own the trophy case. Mr. Carlson stated that they are replacing the case therefore the Lions Club should own the case. Councilmember Mueller stated they will maintain the case. Councilmember Hark stated that we need an agreement between both parties that memorize the agreement so this situation doesn't happen again in fifteen years.

The council tabled the item for the November work session.

**Motion by Bartholomew, second by Piekarski Krech to table item 4F.**

**Ayes: 5**

**Nays: 0**

**Motion carried.**

Councilmember Mueller pulled item 4N.

Councilmember Mueller asked if this item had been previously discussed. Public Works Director, Mr. Thureen stated no, this is an outstanding issue with the alignment at its intersection with Trunk Highway 3. Development concepts for property on the eastside of T.H.3 (Nichols property) could affect that recommendation. Mr. Thureen stated that developing parcels of the alignment asked for future plans of roadways. He added another family approached the city who owns a different parcel, they specifically

asked about future plans of roadway. Mr. Thureen recommended that an alignment get figured out to answer these types of questions. He noted a developer could approach the city and we need to discuss future right of way. Councilmember Mueller asked if Mr. Thureen talked to the residents. Mr. Thureen stated three families have approached the city.

**Motion by Mueller, second by Piekarski Krech to approve item 4F.**

**Ayes: 5**

**Nays: 0            Motion carried.**

**5. PUBLIC COMMENT:**

**6. PUBLIC HEARINGS:**

**7. REGULAR AGENDA:**

**I. COMMUNITY DEVELOPMENT:**

**A. BRIAN & VICKI DZIEWECZYNSKI; Consider a Resolution 16-166 relating to a Variance to allow a detached accessory structure 1,440 square feet in size and six (6) feet from the side property line for property located at 7030 River Road**

Mr. Link outlined the item to the Council. The applicant is proposing to add an accessory structure that is 1,440 square feet. The maximum size allowed is 1,000 square feet. The property is 1.09 acres in size located along the Mississippi River. The request is to build the accessory building on an existing foundation that was there previously from a house that was burnt down in the 1980s. Mr. Link stated that the existing foundation is six feet from the property line. Any building over 1,000 square feet requires a 50 foot setback. The planning staff recommended approval of both requests. The planning commission approved the set back but they recommended denial of the request for the variance to allow a detached accessory building 1,440 square feet in size whereas 1,000 square feet is the maximum size allowed. They believe there is no practical difficulty and it's not unique.

Applicant, Vicki and Ryan Dziejeczynski, 7030 River Road, she described the history of the property, she stated the concrete slab is an eye sore. She stated they would like to utilize the foundation in its entirety and reflect the structure of their home. She stated that the other structure on the property would be torn down. She discussed how they would use accessory structure. She mentioned that the structure is bed rock which means no basements. She stated they feel that there is hardship of the property and that this variance would allow for a practical use of the property.

Councilmember Piekarski Krech stated she likes that they are reusing something. She stated covering up the foundation makes it useful and likes that they are not increasing the impervious surface. Mr. Dziejeczynski stated that they are not creating a new concrete slab.

Councilmember Hark asked Mr. Link if a previous concrete slab brings hardship or if something like this was passed by a variance in the past. Mr. Link answered no. Mayor Tourville asked about a structure fire time frame. Mr. Link stated yes there is but doesn't know the specifics. Councilmember Hark asked does

the garage have a concrete slab and whether it will be removed. Mr. Dzieweczynski responded no, it has pavers and it will be removed.

**Motion Piekarski Krech second Mueller to approve the resolution of the variance to allow a 1,440 square foot accessory building.**

**Ayes: 5**

**Nays: 0          Motion carried.**

**B. DEALS ON WHEELS, LLC; Consider a Resolution 16-167 relating to a Variance to allow a four foot parking setback from the front property line whereas 10 feet is required for property located at 6250 Concord Boulevard**

Mr. Link outlined the item to the Council. He illustrated the property on the map. He stated that the business wants a four foot setback to include a cedar fence and planter boxes to provide a buffer between the parking area and the property line. The applicant would like green space. He stated, there are two different recommendations. The Planning staff recommends a denial. They stated that there is no uniqueness. The Planning Commission approved the setback with the condition that curb stops be installed and also recommending that the newly paved area be reestablished to meet code requirements.

The Applicant, Mathew Balsimo and Douglas Balsimo, 6250 Concord Blvd stated that they are trying to improve the eye sores. The one neighbor to the north has landscaping. They stated they paved without knowing about the setback. They noted it helps customers move and turn around safely.

Councilmember Piekarski Krech asked about impervious surface. Mr. Link stated Engineering Dept looked at this and was not concerned.

Councilmember Bartholomew asked if the other properties have setbacks. Mr. Link stated it's mixed; we enforce if there's a complaint. He stated that some of the uses have been non-conforming.

Councilmember Bartholomew stated there not out of character. Mr. Link stated that the property to the south doesn't have the setback but the property to the north does.

Mayor Tourville stated that the property looks improved.

Councilmember Bartholomew commented that providing safety is beneficial when parking and turning out is important.

Councilmember Hark stated that next time the applicants will remember to go to the city and ask the question.

**Motion Bartholomew second Piekarski Krech to approve item the setback.**

**Ayes: 5**

**Nays: 0          Motion carried.**

**C. PULTE HOMES OF MINNESOTA; Consider a Resolution 16-168 relating to a Comprehensive Plan Amendment to change the land use designation from LI, Light Industrial to LDR, Low Density Residential for property located west of Jefferson Trail and south of Wescott Road**

Mr. Link outlined the item to the Council. He stated that currently the property is Light Industrial. The applicants are planning on a single family development. They have not put in for the plat or the rezoning but they wanted to request a comprehensive plan amendment. Mr. Link stated Pulte home would like to change the property from Light Industrial to LDR. The area is consistent with the current nature of the area. There is a problem with the access of Jefferson Trail and Wescott Road. The access would go through the residential area. Planning Commission and Planning Staff recommended the approval of the change to the comprehensive plan. He reminded the council that it will need a 4/5 vote of the council.

Councilmember Piekarski Krech asked about the history of the proposals in the past. Mr. Link stated a townhome development was approved by the council but it never materialized. The comprehensive amendment never went through.

Applicant, Paul Heuer, 7500 Office Ridge Circle, Eden Prairie, stated Pulte Homes is excited to build in Inver Grove Heights.

Councilmember Mueller discussed concerns over the topography and stated he wanted to make sure homes are built and it's not a storage area. Councilmember Mueller discussed access issues. Mr. Link responded that there is no access off 149<sup>th</sup>. Mr. Link stated if the council approves the comprehensive plan amendment it does not become effective until the council sees the plat. The council has an opportunity to review the plat. Councilmember Mueller asked who pays for sewer and water and who maintains the roads. Mr. Link stated the joint powers agreement between Eagan and Inver Grove Heights will be reviewed by staff.

Mayor Tourville stated that the applicant needs approval from Eagan and the City on the plat.

**Motion Bartholomew second Piekarski Krech to approve the comprehensive plan amendment.**

**Ayes: 5**

**Nays: 0            Motion carried.**

**D. CITY OF INVER GROVE HEIGHTS; Consider the Second Reading of a Zoning Ordinance Amendment relating to:**

**a) changes to the Major Site Plan Review and Conditional Use Permit Review amendments expanding administrative review.**

**b) changes to the permitted and conditional uses in the I-2, General Industry Zoning District**

Mr. Hunting stated no changes were made to the ordinance and this is the second reading of the ordinance. This reading is the same as the first reading. Mr. Hunting stated that staff recommends approval.

**Motion Bartholomew second Mueller to approve the second reading of the zoning ordinance.**

**Ayes: 5**

**Nays: 0            Motion carried.**

## **II. FINANCE**

### **E. Consider Resolutions 16-169 Adopting the Proposed Tax Levy for 2017, Adopting the Proposed 2017 Budgets Resolution 16-170, Adopting the Proposed Watershed Management Taxing District Tax Levy for 2017 Resolution 16-171 and Set the Date and Time for the Regularly Scheduled Meeting**

Ms. Smith, Finance Director gave an outline of the item. The proposed 2017 Base Budget Plus Additions results in a 5.13% increase to the tax rate and a 7.62% increase to the tax levy. The General Fund budget continues to rely on a transfer from the Host Community Fund. There is a decrease of \$100,000 from the budget when comparing last year's budget. The Base plus additions were outlined from the Request for Council Agenda report. Ms. Smith outlined the dates of the scheduled meetings regarding the budget.

Staff recommends setting the regularly scheduled meeting for Monday, December 12, 2016 at 7:00 pm and approving the three resolutions brought forward including:

Resolution adopting the proposed 2017 Budget

Resolution adopting the proposed property tax levy for 2017

Resolution adopting the proposed watershed management taxing district tax levy for 2017

**Motion by Bartholomew second by Hark to approve the above Resolutions and set the date for the hearing on December 12, 2016 at 7:00 pm.**

**Ayes: 5**

**Nays: 0          Motion carried.**

## **III. ADMINISTRATION**

### **F. Consider Second Reading of Ordinance 1321 Amending Section 8-2-2 through 8-2-5 Trash Collection**

City Attorney, Mr. Kuntz outlined the item he stated the amended ordinance would have six changes, one of those changes would be to allow for 17 licenses and will approve license transferable.

The administration penalty was removed for the section draft. He stated that both the state auditor and stated general stated a statutory city does not have the right to impose administrative fines system unless the state statute allows for the city to fine that area. He stated in terms of liquor and tobacco cities have that ability to administer fines.

Another change is in the hours of collection. It will now be 6:00am-6:00pm instead of 9:00pm. The fourth change requires that the trash collection company pick up recyclables from a customer on the same day that they pick up municipal mixed solid waste. The next change is regarding residential units, for a single family residential housing of up to four types of units, the pickup of recyclable must be provided by the trash haulers. Another change is that the trash collector must have an invoice that reflects recycling and trash collection on the same bill. The next change is that a trash hauler cannot place at a residential unit a trash container or bin unless the person in charge of the property has first consented to the placement or

contacted the business for that service. He explained that this action is used by trash companies as a predatory marketing tool. The bins show up in residential areas and people start using that company and end up with a lifetime of service to that residence. Mr. Kuntz concluded that those are the six changes to the ordinance. The administrative penalties section will be removed.

Ms. Calvert, Government Intern gave an overview of the meetings with the trash haulers. She stated we heard complaints from residents which started this discussion with the haulers. The aforementioned changes of the ordinance were brought forward and have been agreed upon by the trash haulers.

Ms. Calvert clarified one of the changes as presented by Mr. Kuntz. She stated that recycling and trash collection must be done on the same day but could be collected every other week. Mr. Kuntz stated that the ordinance will need to be clarified to show that point.

Ms. Calvert pointed out that the haulers did agree with the mandatory recycling services and that those services be included in their fees.

Ms. Calvert stated currently they can bill extra for recycling. Councilmember Piekarski Krech commented that she thought it was all included. Ms. Calvert stated no, companies can bill extra for the recycling service.

Mayor Tourville stated there shouldn't be an opt out of recycling option and they shouldn't increase the fees.

Mr. Lynch stated that recycling is mandatory and currently it has not been practiced that way. The recycling will be the standardized. Mayor Tourville stated two barrels are included in the service. Mr. Lynch concluded that the haulers were in agreement with the changes.

The council discussed the ordinance at length and proposed changes. Administration staff stated that there will be discretion for the new time of service of 6:00pm. They added that trucks are allowed to drive on the roads after pick up.

**Motion by Piekarski Krech second by Mueller for the second reading of the ordinance.**

**Ayes: 5**

**Nays: 0          Motion carried.**

### **G. Interim Ordinance Regarding Predatory Offender Residency Restrictions**

Mr. Kuntz outlined the ordinance. He pointed out that this is an interim ordinance meaning a temporary ordinance. It allows a certain time in which the city can study the issue. It's admissible by the Association of Municipal Planning Act and does not require a public hearing. It does not need an application review. He stated this ordinance would need to be done in one reading. If passed in one reading then it can pass in a majority vote.

Mr. Kuntz outlined the ordinance language. The planning staff would engage in a study and have a maximum length of one year. It should be back in February for consideration from the council. He stated that the thought was for it to be discussed at the October work session meeting. With that in mind, the map has been prepared. The council received the map and it was printed on the dyes.

The council discussed the map at length.

The council discussed licensed daycares and whether all daycares were accounted for. Mayor Tourville stated that the information on daycares came from the county not the state. He asked who administered the licenses.

Councilmember Piekarski Krech stated that the county licenses the day care homes and the state licenses day care centers. But it is all under the State's regulations.

Mr. Kuntz stated under section 3. 1.5. The intent is to cover both the in home and daycare centers. The ordinance will reflect that change.

Mayor Tourville stated that the predatory offender has moved out of the city.

Councilmember Piekarski Krech stated she is worried about the legality of this in court and whether the ordinance will actually help. She stated what makes a city safer is awareness and education. She stated that we should educate and put our money towards programming. She discussed the importance of what the police department is currently doing when they make random visits of registered sexual offenders (1, 2, 3,) quarterly.

Mayor Tourville stated in the discussion with the school district of ISD 199 and the City, they would like joint presentations with the Jacob Wetterling program. ISD 199 would like to be involved in training and education.

Mr. Lynch discussed that the temporary ordinance gives the council time to discuss these issues. He stated that on October 3<sup>rd</sup> the Department of Corrections and the Dakota County Probation Services office will talk about this issue and they will bring up that establishing the ordinance does not have the effect it intends to have. The offenders need housing and jobs. Mr. Lynch stated you don't want them to congregate in one area. He stated that after the October 3<sup>rd</sup> meeting there will be a community meeting scheduled in the city with ISD 199.

Councilmember Piekarski Krech asked how long this ordinance is in effect. Mr. Kuntz stated one year and it can't be extended. Councilmember Bartholomew asked if we impose this interim ordinance does this take away any of our rights we currently have. Mr. Kuntz stated this is a supplemental tool, and does not take away or substituent from our rights.

Councilmember Piekarski Krech asked if we have regulation against half way housing. Mr. Lynch stated we are notified when licenses are given but we don't have the ability to impact the location. He stated we can't zone them to particular area. She asked if a half way house would be built in the red circled areas of the map. Mr. Lynch stated this may be a legal challenge. Mr. Kuntz stated that the ordinance exempts housing licensed by the state i.e. state of corrections prior to September 26, 2016.

Mayor Tourville stated that the League of MN Cities is looking group homes and similar housing to make sure that they are not in close distance to each other and should go to the legislature in 2017.

Mr. Lynch discussed that the level 3 Predator could move back into the city because his support system is in Inver Grove Heights, and then another public hearing would have to be done. If this is adopted then he would be subjected to the ordinance where he wasn't before.

Councilmember Hark asked that the council approve this in the interim and then move forward in reviewing the information, modify or not approve it.

Councilmember Piekarski Krech stated that the legislature or courts will have to do something about this. We are in new territory. She stated she thinks new regulations are going to be happening in the next year.

Mayor Tourville stated he was concerned about the lack of input from residents and the discussion of the map.

Councilmember Piekarski Krech stated the residents want us to do something. Mayor Tourville stated that we are going to suspend rules to pass it without notifying residents. Councilmember Hark stated this is an interim ordinance. Councilmember Piekarski Krech stated residents concerns were about the predatory offender being close to schools.

Mr. Lynch stated the legislative balance here is the short term protection compared to the long term protection of what is in the best interest of the city. If we don't start in October, the best estimate of getting an ordinance established is in the month of February. The council should balance that with having another predatory offender back in the city. He stated in the interim the council will try and protect residents in the best interest of the community.

The council discussed the interim ordinance at length.

Mr. Lynch stated that at the level 3 predatory offenders meeting the crowd was notified that the city would be meeting.

Councilmember Bartholomew asked if the map is driving the ordinance. Ms. Nason stated that the map is an for illustrative purposes only. Mayor Tourville questioned about changes to the map.

City Clerk Tesser asked about the map associated with the ordinance. She stated city code does not include maps. She further asked going forward does the council want the map on the website similar to the bow hunting map.

Mayor Tourville stated that a map shouldn't be included on the website. Mr. Lynch stated that the map could be for informational purposes but used as a disclaimer.

Councilmember Bartholomew stated we can rescind the ordinance and afford to protect our residents.

**Motion by Piekarski Krech second Bartholomew to suspend the rules.**

**Ayes: 5**

**Nays: 0**

**Motion carried.**

**Motion by Bartholomew second Piekarski Krech to approve the interim ordinance and includes that it covers home daycares and daycare centers licensed by Dakota County or the State of Minnesota.**

**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 8:55 p.m.