

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, JANUARY 26, 2009 - 8150 BARBARA AVENUE**

**CALL TO ORDER/ROLL CALL** The City Council of Inver Grove Heights met in regular session on Monday, January 26, 2009, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:30 p.m. Present were Council members Grannis, Madden, and Piekarski Krech; City Administrator Lynch, Assistant Administrator Teppen, City Attorney Kuntz, Public Works Director Thureen, Community Development Director Link, Parks & Recreation Director Carlson, Finance Director Lanoue and Deputy Clerk Rheume. Councilmember Klein arrived at 8:50 p.m.

**3. PRESENTATIONS:** None.

**4. CONSENT AGENDA:**

- A. Minutes – January 12, 2009 Regular Council Meeting
- B. **Resolution 09-06** Approving Disbursements for Period Ending January 21, 2009
- C. Change Order No. 2 & Pay Voucher No. 7 - City Project No. 2003-15, Northwest Area Trunk Utility Improvements
- D. Final Pay Voucher No. 18, Engineer's Final Report, and **Resolution 09-07** Accepting Work for City Project No. 2006-05, Water Treatment Facility Expansion
- E. **Resolution 09-08** Approving Work Order No. 7 with Barr Engineering Company for City Project No. 2008-10 East Frontage Road, Ravine Storm Water Ponds
- F. **Resolution 09-09** Adjusting the Price of the Contract with Stonebrooke Engineering for Engineering Final Design Services for City Project No. 2009-01, Trunk Highway 3 & Proposed 80<sup>th</sup> Street (CSAH 28) Intersection Improvements
- G. Approve Full Service Beverage Proposals
- H. Deem Old UHF/VHF Car Radios to be Surplus Property and Sold to an Outside Vendor
- I. Approve Applications for Exempt Charitable Gambling Permits & Temporary 3.2% Malt Liquor License – St. Patrick's Church
- J. Personnel Actions

**Motion by Madden, second by Grannis, to approve the Consent Agenda.**

**Ayes: 4**

**Nays: 0      Motion carried.**

**5. PUBLIC COMMENT:**

Dian Piekarski, 7609 Babcock Trail, stated that she received the summary of the 2009 budget statement and thanked staff for putting it together in that format. She expressed concerns regarding the amount of money being spent on recreation. She asked that the City consider the role of government and creatively look at the items that money is being spent on.

Ms. Lanoue clarified that the budget also includes fees that are paid for services.

Mayor Tourville added that Council & City staff have public budget discussions from August through December every year.

Councilmember Madden commented that the Council is very frugal and carefully considers every dime that is spent when preparing the budget.

**6. PUBLIC HEARINGS:****A. CITY OF INVER GROVE HEIGHTS;** Consider Transfer of On-Sale Intoxicating Liquor License held by Kladek, Inc. dba King of Diamonds due to Change in Corporate Ownership

Mr. Kuntz stated that on December 8<sup>th</sup> the city renewed an intoxicating liquor license for Kladek, Inc. subject to a condition of conviction. He explained that the transfer of the stock has occurred. Mr. Kuntz noted the local city ordinance sets up a process. He explained the memo outlining the state statutes and local ordinances. He noted that even if there is a conviction against Kladek, Inc., he can still lease it to someone else.

Mayor Tourville asked if a background check has been done on the new owner.

Ms. Rheaume responded that a background check was completed on Mrs. Kladek and no basis for denial of the request was found. She added that liquor liability insurance documentation was submitted along with the necessary fees associated with the license.

Councilmember Madden asked if the purchase agreement and lease had been reviewed by the City Attorney and if both documents appeared to be valid.

Mr. Kuntz confirmed that both documents had been reviewed and both appeared to be valid and representative of the transaction that took place. He added that the guilty party would not be able to be an officer of the corporation or the on-site manager of the business.

Allan Cederberg, 1162 East 82<sup>nd</sup> Street, referred to the December 8<sup>th</sup> memo prepared by the City Attorney for the Council. He expressed concern that Mrs. Kladek knew of the illegal activities that were taking place and didn't do anything to stop what was happening. He asked that the Council deny the transfer of the license and initiate the revocation process. He stated that he does not believe Mrs. Kladek to be of good moral character.

Mayor Tourville clarified that Susan Kladek was not named in the indictment against Lawrence Kladek.

Mr. Kuntz confirmed that no charges were filed against Susan Kladek.

Councilmember Piekarski Krech stated that a person cannot be considered guilty by association.

Councilmember Madden commented that the Council is being asked to consider the application of Susan Kladek, not Lawrence Kladek. He stated that Mr. Kladek sold his business and is not involved in the request the Council is being asked to consider. He added that the Council has to have a legal reason to deny the application.

Councilmember Grannis asked about the definition of good moral character and repute as it relates to case law.

Mr. Kuntz reviewed the "good moral character and repute" provision of the statute as explained by Minnesota Rule 7515.0410 which was provided to the Council for their December 8, 2008 meeting in his memo dated December 4, 2008.

Ed Gunter, 6671 Concord, stated that he sees the transfer to Susan Kladek as a positive change. He added that he would like to see the business continue.

Russell Liljedahl, 6838 Carleda Avenue, recommended that the Council deny the transfer request because the intent of the law was to keep Mr. Kladek from holding a license and he fails to see how selling the business to his wife deprives Mr. Kladek of anything.

Councilmember Grannis stated that if the intent of the law was to deny the spouse from holding a liquor license it would say that.

Mr. Kuntz added that there is no law which imposes sanctions on the spouse.

Councilmember Madden reiterated that the Council is not being asked to take action pertaining to Lawrence Kladek, they are being asked to consider the application of Susan Kladek and there is no legal

basis to deny her request.

Mayor Tourville commented that it is the Council's responsibility to protect all of the citizens of Inver Grove Heights and the City could face a lawsuit if the Council denied the request with no legal basis.

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

**Ayes: 4**

**Nays: 0      Motion carried.**

**Motion by Madden, second by Piekarski Krech, to approve the change in corporate ownership and transfer the liquor license held by Kladek, Inc. dba King of Diamonds to Susan Kladek.**

**Ayes: 4**

**Nays: 0      Motion carried.**

## **7. REGULAR AGENDA:**

### **PARKS AND RECREATION:**

#### **A. CITY OF INVER GROVE HEIGHTS;** Consider Final Approval of Mississippi River Regional Trail through Heritage Village Park and Doffing Avenue

Mr. Carlson explained that Dakota County submitted a detailed plan set to the City and the engineering department reviewed the plans and concluded that they were acceptable. He stated that as designed the trail would be located within existing right-of-way along Doffing Avenue and that in relation to the property located at 6549 Doffing Avenue, the edge of the trail would be 20 feet from the foundation of the structure. He noted that the owners of that property submitted a letter to the Community Development Director requesting to be part of the City's voluntary acquisition program and a formal offer for the property was being worked on by the CDA. He explained that Dakota County would reimburse the City \$78,600 for costs associated with the construction of the trail through Heritage Village Park and along Doffing Avenue. He added that those funds could be used by the City to help with the acquisition of the property located at 6549 Doffing Avenue.

Mayor Tourville asked what other costs the City incur for the trail.

Mr. Carlson responded that the City would not have any construction costs as they would be paid for by Dakota County. He reviewed the master plan for the park and discussed the need for various trail head facilities that would need to be constructed along the trail. He stated that it would make sense that both the City and the County would benefit from jointly constructing the trail head facilities and help each other pay for the cost of construction, maintenance and long-term replacement.

Councilmember Madden stated he still does not understand why the trail has to go on a public street. He commented that he has never agreed with the proposed alignment and feels that placing the trail along Doffing Avenue presents too many safety issues and places an unfair burden on the property owners that will have the trail running 20 feet from their home. He stated that he would like to see the trail run through the park.

Councilmember Grannis stated that the option of having the trail run through the middle of the park was looked at and it was determined that it would have prohibited potential future uses of the park such as soccer fields, etc.

Mr. Carlson confirmed that the Parks and Recreation Commission did consider putting the trail through the heart of the park and decided that they did not want the trail to impede future uses or development within the park. He noted that the topography of the park would also present a challenge to putting the trail through the park. He added that the long-term plan is for the City to eventually own all of the properties along Doffing Avenue.

Councilmember Grannis confirmed that the property owner that is most affected has put in a request to have his property purchased.

Councilmember Madden clarified that the property owner would consider an offer, but does not particularly want to move. He stated that they are not left with much of a choice if the trail is installed 20 feet from their home.

Mayor Tourville asked what the size of buffer on each side of the trail needs to be.

Mr. Carlson explained that the trail is being designed at a 20 mph speed, with a minimum of a 2 foot buffer on each side of the trail. He stated that from an engineering stand point the trail will take up 14 feet (10 feet of bituminous surface, 2 foot buffers on each side).

Councilmember Piekarski Krech questioned if the County would responsible for maintenance of the trail.

Mr. Carlson confirmed that the County would be responsible for the maintenance.

Mayor Tourville asked if the drainage issues had been looked at.

Mr. Carlson responded that there is no storm sewer in that area and the trail would not create any additional drainage issues. He noted that it would not solve any issues either.

Jim Dziejewicz, 6549 Doffing Avenue East, stated that he does not understand why the trail cannot go North. He asked how close the trail is to the railroad in South St. Paul. He stated that he does not have any desire to move with the amount that was offered. He clarified that he has never had anything against the trail but he does not want it to run along Doffing Avenue.

Scott Preavy, 6556 Doffing Avenue East, commented on closing the 63<sup>rd</sup> street access and expressed concerns with safety and having no emergency access to the North.

Todd, Dakota County, stated that the distance is approximately 20 feet to the railroad but the issue is purchasing property from the railroad.

Councilmember Grannis stated that he does not see where there could be another alternative and agrees with this alignment.

Councilmember Madden stated that he would be voting against the proposed alignment because he does not agree with running the trail in front of someone's house and also because of the safety issues associated with putting a trail along a public street.

Councilmember Piekarski Krech stated that she felt pushed to make a decision by the County and feels that the City has not been a true partner with the County throughout this process.

Mr. Lynch stated that there will be other improvements that are necessary and stated that the City does not feel that what the County has offered in terms of funding is a fair share of the physical cost of those improvements. He suggested that Council could table their decision to see what the 65<sup>th</sup> Street alignment would look like and to allow the City to continue discussions with the County regarding the potential purchase of property, screening and the financial responsibilities of the City after the trail is built.

**Motion by Grannis, second by Piekarski Krech, to table Final Approval of the Mississippi River Regional Trail through Heritage Village Park and Doffing Avenue to February 9, 2009.**

**Ayes: 5**

**Nays: 0      Motion carried.**

#### **COMMUNITY DEVELOPMENT:**

**B. ROGER ESPESETH;** Consider Resolution relating to a Variance to Exceed the Maximum Size Requirement for a Free-Standing Sign for property located at 10900 Courthouse Boulevard

Mr. Link stated that the applicant is requesting a variance to construct a sign on an existing retaining wall. He explained that the proposed sign would be 141 square feet and would be considered a free-standing sign and not a wall sign. He noted that the City Code allows signs in the E-1 Zoning District to be a maximum size of 100 square feet. He added that the applicant is requesting a sign of this size because

of the issues associated with visibility. He stated that both Planning staff and the Planning Commission recommended approval of the variance as it is similar to other requests that have been granted in the past.

Councilmember Grannis asked what the maximum size allowed would be if the sign was on a wall of the building.

Mr. Link stated that the maximum size would still be 100 square feet.

Mr. Espeseth asked if adding more than 141 square feet could be considered.

Mr. Kuntz clarified that it would have to come back.

**Motion by Madden, second by Piekarski Krech, to adopt Resolution 09-10 approving a Variance to exceed the maximum size requirement for a free-standing sign for property located at 10900 Courthouse Boulevard**

**Ayes: 5**

**Nays: 0      Motion carried.**

**C. DANNER;** Consider a Resolution relating to a Final Plat, Development Contract and related Documents for the plat of Concord Hills located on the East side of Concord Boulevard at 87<sup>th</sup> St.

Mr. Link reviewed the location of the property and explained that the preliminary plat was approved by the Council on January 22, 2007. He stated that the applicant submitted a final plat for Council approval and the request was denied because it did not comply with all of the preliminary conditions of approval. He explained that the applicant has reworked the plans and submitted a final plat that does meet all of the conditions of approval. He stated that Planning staff recommended approval of the final plat.

Mr. Kuntz reviewed four changes that were made to the documents associated with approval of the final plat. He stated that the changes were: a recalculation of the credit for the sidewalk, the establishment of a separate cash escrow for certain vegetative erosion and rain garden matters, a change relating to the reduction of the letter of credit amount due to the fact that certain grading has already occurred and thus does not need to be secured by a larger letter of credit, and the recitation that the developer provide evidence of the conveyance of land from the County to the developer to prove that the developer owns all of the land within the plat. He asked that those four changes be incorporated into any motion that is made by the Council.

**Motion by Madden, second by Klein, to approve Resolution 09-11 relating to a Final Plat, Development Contract and related documents for the plat of Concord Hills located on the East side of Concord Boulevard at 87<sup>th</sup> St. with the four changes as outlined by revised Council memo dated January 26, 2009**

**Ayes: 5**

**Nays: 0      Motion carried.**

**PUBLIC WORKS:**

**D. CITY OF INVER GROVE HEIGHTS;** Consider Approval of Stormwater Easement Obstruction Policy

Mr. Kuntz explained that the policy sets forth guidelines and standards for removal of various obstructions in stormwater pond easements as well as drainage and utility easements. He stated that the policy was reviewed by a risk specialist attorney at the League of Minnesota Cities and the suggestions that were received were incorporated into Section 6 of the policy.

**Motion by Piekarski Krech, second by Klein, to adopt Resolution 09-12 approving a Stormwater Easement Obstruction Policy**

**Ayes: 5**

**Nays: 0      Motion carried.**

**E. CITY OF INVER GROVE HEIGHTS;** Consider Amendments to Deferral of Special Assessment

## Policy

Mr. Kuntz explained that in 1977 the Council adopted a resolution which states that pursuant to Minnesota Statutes, any county, city or town, making a special assessment may, at its discretion, defer the payment of that assessment for any homestead property owned by a person 65 years of age or older for whom it would be a hardship to make the payments. He stated that since the original policy was enacted in 1977 there have been two revisions to Minnesota statutes. He explained that the first revision provides that any county, statutory or home rule charter city, or town, making a special assessment may, at its discretion, defer the payment of that assessment for any homestead property owned by a person who is retired by virtue of a permanent and total disability, for whom it would be a hardship to make the payments. He stated that the second revision provides that any county, statutory or home rule charter city, or town, making a special assessment may, at its discretion, defer the payment of that assessment for any homestead property owned by a person who is a member of the Minnesota National Guard or other military reserves who is ordered into active military service, as stated in the person's military orders, for whom it would be a hardship to make the payments. He noted that the definition of hardship has remained the same in the policy. He explained that the Council must also decide if the average annual payment includes the principal amount only or principal and interest. He added that if the average annual payment includes principal and interest the amount would be higher thereby making more individuals eligible to defer.

Councilmember Piekarski Krech stated that she thinks the average annual payment should include the principal and interest because that is the true calculation of what the actual cost is for the property owner.

Mayor Tourville stated if people are applying to defer their payments then they need as much help as they can get. He asked if it was possible for property owners to request partial deferments.

Mr. Kuntz responded that the applicant must defer the entire assessment amount.

Ms. Lanoue added that partial assessments cannot be certified to the County.

**Motion by Piekarski Krech, second by Madden, to adopt Resolution 09-13 approving Amendments to Deferment of Special Assessment Policy with the Average Annual Payment defined in paragraph three to be the Total Principal of the Levied Assessment Plus the Interest that would be Payable.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**F. CITY OF INVER GROVE HEIGHTS;** Consider Resolution Accepting Individual Project Order No. 12 A with Kimley Horn and Associates, Inc. for Final Design & Construction Phase Services, Authorizing Preparation of Construction Plans & Specifications, and Authorizing an Appraisal Analysis for property in the Project Area for the Pavement Management Program, Urban Street Reconstruction, City Project No. 2009-09D (South Grove Area 4) and City Project No. 2010-09D (South Grove Area 5)

Mr. Thureen explained that it is necessary to complete the final design for South Grove Area 4 and South Grove Area 5 simultaneously due to the connectivity of the storm sewer, streets and water main system. He noted that it would also allow the City to take advantage of the current bidding climate. He added that the storm sewer is one complete system which also incorporates the 2009 County reconstruction project of Concord Boulevard.

Mayor Tourville suggested that the project area maps and proposed project schedules be put on the website.

**Motion by Klein, second by Piekarski Krech, to adopt Resolution 09-15 Accepting Individual Project Order No. 12A with Kimley Horn and Associates, Inc. for Final Design & Construction Phase Services, Authorizing Preparation of Construction Plans & Specifications, and Authorizing an Appraisal Analysis for property in the Project Area for the Pavement Management Program, Urban Street Reconstruction, City Project No. 2009-09D (South Grove Area 4) and City Project No. 2010-09D (South Grove Area 5)**

**Ayes: 5**

**Nays: 0      Motion carried.**

**G. CITY OF INVER GROVE HEIGHTS;** Consider Resolution Receiving Feasibility Report and Scheduling Public Hearing for the 2009 Pavement Management Program, Urban Street Reconstruction, City Project No. 2009-09D (South Grove Area 4)

Mr. Thureen explained that the proposed projects include the reconstruction of City streets within the South Grove Area over the next three years. He stated that the project would include reconstruction of the roadway as well as storm sewer and water main improvements throughout the three project areas. He explained that the improvements are proposed to be financed through a combination of Municipal State Aid funds, City Pavement Management Program funds, City Water Connection Funds, and special assessments to benefitting residents. He reviewed the proposed project schedule for Area 4 improvements. He recommended that the Council receive the feasibility report and schedule a public hearing.

**Motion by Piekarski Krech, second by Grannis, to adopt Resolution 09-14 Receiving Feasibility Report and Scheduling Public Hearing for the 2009 Pavement Management Program, Urban Street Reconstruction, City Project No. 2009-09D (South Grove Area 4)**

Councilmember Klein clarified that Area 4 is scheduled for this year and Area 5 is scheduled for 2010.

Mayor Tourville clarified that the neighborhood meeting is scheduled for March 12<sup>th</sup> and the public hearing would be scheduled for March 23<sup>rd</sup>.

**Ayes: 5**

**Nays: 0      Motion carried.**

**H. CITY OF INVER GROVE HEIGHTS;** Consider Resolution Receiving Second Amendment to the Feasibility Report, Scheduling a Public Hearing, Approving Plans & Specifications, and Authorizing Advertisement for Bids for City Project No. 2008-11, Southern Sanitary Sewer, East Segment

Mr. Thureen explained that City staff and Kimley-Horn have worked with Mn/DOT to prepare the sanitary sewer plans that were included in Mn/DOT's plans for its East Frontage Road project. He stated that Kimley-Horn prepared the plans for the southern-most segment of the sanitary sewer, from 111<sup>th</sup> Street East to the Inver Grove Distribution Center property, which would be constructed as City Project No. 2008-11. He stated that City staff and Kimley-Horn have met with the affected property owners to discuss the final plan and project financing. He explained that the amendment to the feasibility study presents possible financing options for the I-State and Swift Transportation properties. He noted that no formal response had been received from Swift Transportation and staff was still negotiating with I-State.

**Motion by Piekarski Krech, second by Grannis, to adopt Resolution 09-16 Receiving Second Amendment to the Feasibility Report, Scheduling a Public Hearing, Approving Plans & Specifications, and Authorizing Advertisement for Bids for City Project No. 2008-11, Southern Sanitary Sewer, East Segment**

**Ayes: 5**

**Nays: 0      Motion carried.**

**8. MAYOR AND COUNCIL COMMENTS:**

Mayor Tourville stated that the Council would be moving to executive session to discuss Doffing Avenue properties and would only be adjourning when they return.

**9. EXECUTIVE SESSION:**

**10. ADJOURN:** Motion by Piekarski Krech, second by Grannis, to adjourn. The meeting was adjourned by a unanimous vote at 10:30 p.m.