

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

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, October 26, 2009, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:30 p.m. Present were Council members Grannis, Klein, Madden, and Piekarski Krech; City Administrator Lynch, Assistant City Administrator Teppen, City Attorney Kuntz, City Engineer Kaldunski, Parks & Recreation Director Carlson, Community Development Director Link and Deputy Clerk Rheaume.

3. PRESENTATIONS:

4. CONSENT AGENDA:

Councilmember Grannis removed Item 4H, Resolution Accepting the Proposal of American Engineering Testing for Geotechnical Testing Services on Upper 55th St. for the 2010 Pavement Management Program, Item 4I, Resolution Accepting the Proposal of Braun Intertec for Geotechnical Testing Services on College Trail and Blaine Avenue for the 2010 Pavement Management Program, and item 4K, Consider Vibration Monitoring at 4055 59th Street, from the Consent Agenda.

- A. Minutes – October 12, 2009 Regular Council Meeting
- B. **Resolution No. 09-197** Approving Disbursements for Period Ending October 21, 2009
- C. **Resolution No. 09-198** Certifying Delinquent Utility Bills
- D. Final Compensating Change Order No. 2, Final Pay Voucher No. 5, Engineer's Report of Final Acceptance, and **Resolution No. 09-199** Accepting Work for City Project No. 2008-10 – T.H. 52 East Frontage Road Ravine Storm Water Pond Improvements
- E. Final Compensating Change Order No. 2, Final Pay Voucher No. 2, Engineer's Report of Final Acceptance, and **Resolution No. 09-200** Accepting Work for City Project No. 2008-13 – Courthouse Boulevard Court Street Improvements
- F. Pay Voucher No. 4 - City Project No. 2009-09D, South Grove Urban Street Reconstruction Area 4
- G. **Resolution No. 09-201** Awarding Contract for 2009 Large Storm Sewer Televising Program
- J. Approve Installation of Overhead Street Light at Cahill Avenue/Inver Grove Trail Intersection
- L. Personnel Actions

Motion by Madden, second by Klein, to approve the Consent Agenda.

Ayes: 5

Nays: 0 Motion carried.

- H. Consider accepting the proposal of American Engineering Testing for Geotechnical Testing Services on Upper 55th St. for the 2010 Pavement Management Program

Councilmember Grannis stated the service agreement with American Engineering Testing needed to be corrected to allow the City to recover attorney's fees that may be incurred in the event of litigation.

Motion by Klein, second by Madden, to adopt Resolution No. 09-202 accepting the proposal of American Engineering Testing for Geotechnical Testing Services on Upper 55th St. for the 2010 Pavement Management Program with the correction to the service agreement regarding recovery of attorney's fees.

Ayes: 5

Nays: 0 Motion carried.

- I. Consider Accepting the Proposal of Braun Intertec for Geotechnical Testing Services on College Trail and Blaine Avenue for the 2010 Pavement Management Program

Councilmember Grannis stated he would not vote in favor of contracting with Braun Intertec due to an issue that occurred with soil testing during a previous project.

Motion by Madden, second by Klein, to approve Resolution No. 09-203 Accepting the Proposal of Braun Intertec for Geotechnical Testing Services on College Trail and Blaine Avenue for the 2010 Pavement Management Program

Ayes: 4

Nays: 1 (Grannis) Motion carried.

- K. Consider Vibration Monitoring at 4055 59th Street

Councilmember Grannis reiterated he would not be in favor of hiring Braun Intertec and asked that an addendum be added to the contract for reclamation of attorney's fees should litigation be necessary.

Motion by Madden, second by Klein, to approve vibration monitoring at 4055 59th Street with an addendum for reclamation of attorney's fees

Ayes: 4

Nays: 1 (Grannis) Motion carried.

5. PUBLIC COMMENT: None.

6. PUBLIC HEARINGS:

- A. CITY OF INVER GROVE HEIGHTS;** Assessment Hearing for City Project No. 2008-09D, Urban Street Reconstruction – South Grove Area 3

Tom Kaldunski, City Engineer, explained the components of the project included: mill and overlay improvements, street reconstruction with concrete curb and gutter, concrete sidewalk, storm sewer, water main, grading, landscaping, restoration and appurtenances. He stated the total cost of the project was \$3,669,953.15. He noted 431 properties were proposed to be assessed, and explained the reconstruction area consisted of 237 single-family residential lots, three (3) partial residential lots, one (1) business, one (1) school property, nine (9) church properties, and one (1) City property. He added the mill and overlay area consisted of 154 townhomes/condos, nine (9) businesses, one (1) apartment property, and two (2) school properties. He noted that there were three (3) single-family residential lots on Cahill Avenue proposed to be assessed for storm sewer only, and 250 properties in the reconstruction area proposed to be assessed for storm sewer work as well.

Mr. Kaldunski explained the proposed assessment role was based on Metzen Appraisals' recommended cap of \$4,000 for street reconstruction and \$2,000 for mill and overlay. He noted that all mill and overlay assessments, per the City's assessment policy, were less than the recommended \$2,000 cap. He explained if cumulative total assessment for parcels in the project area exceeded \$4,000 for reconstruction, the excess amount would be funded via the Pavement Management Fund. He further explained if the parcel was already assessed for storm water improvements part of City Project 2001-02 or participated in the driveway credit program, that amount would be subtracted from \$4,000 to arrive at the final assessment amount for the current project. He noted assessments for the half-lot parcels were prorated based on a front footage calculation. He stated the total amount proposed to be specially assessed is \$1,876,302.29 if City policy were to be followed and \$1,174,087.69 if the assessments were capped as per the recommendations of the analysis completed by Metzen Appraisals. He reviewed the proposed assessment terms of ten (10) years at an interest rate of six (6) percent for street reconstruction or storm sewer costs, five (5) years at an interest rate of six (6) percent for mill and overlay, and fifteen (15) years at an interest rate of six (6) percent for the church property.

Mr. Kaldunski reviewed the topics discussed at an informational meeting held on September 30th. He stated 20 residents were in attendance and various issues were discussed including: requested repairs, assessments where owners had one full lot and one partial lot, and several parcels that should not be

assessed because they were road right-of-way.

Motion by Klein, second by Madden, to receive signed correspondence

Ayes: 5

Nays: 0 Motion carried.

Councilmember Klein asked Mr. Kuntz to review the senior citizen deferment policy.

Mr. Kuntz said within the notice sent to the property owners there is reference to a city council policy of deferment.

Barbara Heinzer, 6971 Clayton Avenue, stated she is one of the property owners proposed to be assessed for one full lot, plus one half lot, for a total assessment of \$6,000. She asked that the Council make an exception and assess her similar to what her neighbor was proposed to be assessed for the same amount of property.

Councilmember Piekarski Krech questioned why Ms. Heinzer did not combine the lot into one parcel.

Ms. Heinzer explained the lot is unbuildable and was purchased as tax delinquent property.

Mayor Tourville questioned how many half lots were proposed to be assessed.

Mr. Kaldunski responded two property owners were proposed to be assessed for one full lot and for one half lot, and a third situation in which a property owner owns one full lot and a separate party owns the half lot.

Councilmember Klein clarified that in the third situation the half lot is owned by a separate entity that would be assessed only for the half lot. He confirmed that staff did not receive any assessment objections regarding the parcel.

Don Roberts, 7312 Clayton Avenue East, questioned the interest rate for the assessment to the Mt. Bethel church property. He stated the interest rate should be 5.0 or 5.5%. He asked that the same terms that were given to St. Patrick's church for a previous project be given to Mt. Bethel.

Mayor Tourville explained the interest rate is uniform for all parcels in the project area.

Councilmember Klein clarified that St. Patrick's church was given a longer term at the same interest rate as everyone else that was assessed for the project.

Mr. Kaldunski responded that St. Patrick's received a fifteen (15) year term at an interest rate equal to what the Council imposed on every other property owner assessed.

Doug Smith, 6928 Cahill Avenue, asked the Council to consider a reduction to his proposed assessment. He stated his property does not abut any of the affected streets in the project area and does not feel the amount he is proposed to be assessed is equal to the benefit his property received. He explained the benefit is supposed to be for drainage and his property does not contribute runoff to the improved drainage area.

Mayor Tourville asked if Mr. Smith's property had been assessed for City Project 2001-02.

Mr. Kaldunski stated the property was not assessed for City Project 2001-02 and explained the proposed assessment is for the storm sewer improvements because the property is located in the drainage area.

James Holzemer, 6948 Cahill Avenue, stated he was assessed for storm sewer project on Cahill Avenue in 1972. He commented that the proposed assessment amount was too high and did not warrant the benefit to his property.

Mayor Tourville noted that the infrastructure needs to be updated every 20-25 years.

Councilmember Klein asked if Mr. Holzemer was being assessed for his whole lot.

Mr. Kaldunski stated he was being assessed for the portion of the lot that drains towards 69th Street.

Mr. Holzemer asked the Council to consider reducing his proposed assessment.

Mayor Tourville noted that this is one of the lowest caps the City has ever considered due to declining property values and the state of the economy.

Mr. Kaldunski clarified the Holzemer and Smith properties were proposed to be assessed the full amount for city drainage. He noted the Council could consider applying a cap to these two situations.

Howie Pince, 6941 Casper Avenue, spoke in favor of the assessment cap and asked that a problem with his sprinkler system is addressed.

Warren Larson, 6931 Clayton Avenue East, asked for clarification regarding the proposed assessment cap, the accrual of interest for the senior citizen deferral program, and the procedure for paying the assessment.

Mayor Tourville explained that appraisals were done in the neighborhood and it was found that a \$4,000 assessment could be sustained by the properties in the reconstruction area. He stated the proposed interest rate of 6% would accrue annually if the assessment was deferred.

Mr. Kaldunski explained that once the Council adopts a final assessment role, an invoice would be sent out to property owners indicating the final assessment amount. He noted the property owner would have 30 days from the date of the assessment hearing to pay without interest.

Mr. Larson asked how much interest would accrue if the assessment was paid within six months.

Mr. Kuntz stated the interest would be paid off through the end the year in which it was paid. He stated the assessments need to be certified to the county by December 1st. He clarified that a hardship needed to be displayed to participate in the deferral program.

Doug Ness, 6931 Claude Avenue, asked for clarification on the assessment cap and if any lots West of Cahill Avenue were proposed to be assessed.

Mayor Tourville stated a \$4,000 cap is being proposed for single-family residential lots in the reconstruction area.

Mr. Kaldunski stated no properties West of Cahill Avenue were proposed to be assessed.

Jesse Fillmore, 6801 Cain Avenue, asked what the total amount to be paid by the City would be.

Mr. Kaldunski stated \$1.17 million dollars is proposed to be assessed and the City would pay \$2.6 million if the cap was imposed.

Mayor Tourville noted the City allocates money every year as part of the budget process to pay for projects.

Motion by Klein, second by Madden, to close the public hearing

Ayes: 5

Nays: 0 Motion carried.

Mr. Kuntz confirmed that no assessment objection had been filed for the solely owned half lot.

Councilmember Piekarski Krech stated she would be willing to reduce the assessments by half for the property owners with one lot plus one half-lot. She explained her concern is setting a precedent for not assessing unbuildable lots that could be combined into one parcel and have not been.

Mayor Tourville stated he would support assessing those property owners for one lot because the half lot is unbuildable and in an urban area. He noted he would like an update on the issue with the sprinkler system and on the email that objected to the assessment but was not signed by the property owner.

Motion by Klein, second by Madden, to approve Resolution No. 09-204 adopting the final assessment roll with a \$4,000 assessment cap for the reconstruction area, a \$2,000 assessment cap for mill and overlay areas, a 5.5% interest rate, a 10-year term for the reconstruction area, a 5-year term for mill and overlay areas, a 15-year term for non-government/non-profit parcels, a

reduction by ½ to the proposed assessment for the Holzemer (6948 Cahill Ave.) and Smith (6928 Cahill Ave.) parcels and to consider the identified parcels which have an additional half-lot as one lot for City Project No. 2008-09D, Urban Street Reconstruction – South Grove Area 3

Ayes: 5

Nays: 0 Motion carried.

The City Council took a five-minute recess.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. WALMART STORES; Consider Resolution Approving a One-Time Hour Extension to Allow the Store to Remain Open for 24 Hours on Thanksgiving Day

Mr. Link explained Walmart Stores submitted a request to allow extended hours of operation on the evening of November 26, 2009 and remain open for 24 hours into the morning of Friday, November 27th. He stated the manager of the store cited avoidance of long lines and possibility of injuries as reasons for the extended hours request. He noted the parking lot lights would remain on at full intensity for the same period. He explained Walmart currently has restrictions on its hours of operation and the hours the parking lot lighting remains on. He stated the only exception to the hours of operation has been to allow the store to open at 5:00 a.m. on the Friday after Thanksgiving. He explained Planning staff would support the request for the one-time extension provided there were no neighborhood concerns that were unable to be addressed.

Dave Gall, 9270 Cheney Trail, expressed concerns regarding noise and light during the extended hours of operation. He opined that Walmart has not followed the guidelines and restrictions that were put in place as conditions of approval and commented that the police have not enforced violations he has personally reported. He commented that the original agreement was that the store would be open daily from 7:00 a.m. to 11:00 p.m. and that agreement was already amended to allow the store to open at 5:00 a.m. on the Friday after Thanksgiving. He asked that the Council not approve further amendments to the original agreement.

Jim Elsenpeter, Walmart Store Manager, stated he would check on measures that could be taken to address the lighting concerns. He stated that the request stems from an attempt to avoid safety issues that were demonstrated last year both from a consumer and employee standpoint.

Ed Gunter, 6671 Concord Boulevard, commented that the store should not be open for 24 hours on a holiday and felt it was unfair to ask employees to work the extended hours.

Mayor Tourville responded that the City has no control over employee schedules or on which holidays the store is or is not open. He stated the City can only control the hours of operation.

Councilmember Madden stated that he would not support the one-time extension because the conditions of approval that were agreed upon as part of the original request should be upheld. He commented that the restrictions were put in place for a reason. He stated that the amendment to the original agreement to allow the store to open at 5:00 a.m. the Friday after Thanksgiving was sufficient.

Frank Rauschnot, 6840 Dixie Avenue, stated that businesses need to have as many opportunities to succeed as possible and do not need further restraints given the state of the economy.

Councilmember Grannis stated he agrees that the terms of the original agreement should be upheld.

Councilmember Klein stated the one-time extension should be granted because it would alleviate the safety issues and would attract more consumers to the both the store and the City on the biggest shopping day of the year.

Motion by Grannis, second by Piekarski Krech, to adopt Resolution No. 09-205 denying the request for a one-time hour extension on Thanksgiving Day

Ayes: 3 (Grannis, Madden, Piekarski Krech)

Nays: 2 (Klein, Tourville) Motion carried.

B. MIKE PONE; Consider Resolution regarding a Variance to Construct a Fence within the Bluffline Setback along the Mississippi River Critical Area for property located at 8336 River Road

Mr. Link explained the request is to construct a fence that would encroach within the bluffline setback. He stated the property is located in the Critical Area Overlay District of the Mississippi River and the bluffline setback for all structures is 100 feet. He noted the fence is proposed to be constructed 10 feet from the bluffline. He stated the hardship is the configuration of the lot. He explained it would not be possible to construct a fence that would meet the setback requirements because the distance from the bluffline to the western property line is only 75 feet. He added the applicant proposed installation of the fence to protect his family from the hazardous steep slope from the bluffline to the river. He explained the applicant would not be removing any additional trees and the fence would be visually inconspicuous from the river. He stated both Planning staff and the Planning Commission recommended approval of the request. He noted the Minnesota Department of Natural Resources was contacted and did not oppose the request.

Councilmember Piekarski Krech confirmed that there would be no damage to the bluff.

Motion by Klein, second by Madden, to adopt Resolution No. 09-206 approving a Variance to construct a fence within the bluffline setback along the Mississippi River Critical Area for property located at 8336 River Road

Ayes: 5

Nays: 0 Motion carried.

C. DEBRA WYLIE; Consider Resolution regarding a Conditional Use Permit to exceed the maximum impervious coverage for property located at 7036 Dawn Way

Mr. Link stated the applicant proposed construction of a pool in the rear yard that would add 610 square feet of impervious surface to the lot, for a total of 39.6%. He noted the lot is approximately 10,777 square feet in size, 10% smaller than the minimum lot size requirements for properties in the R-1C zoning district. He explained that a conditional use permit may be obtained to exceed the 25% impervious coverage requirements for lots that do not meet the minimum size requirements in the R-1 district. He stated the pool would not have a negative impact on the neighbors and the proposal meets all setback requirements. He stated Planning staff and the Planning Commission recommended approval of the request with fourteen conditions. He noted the applicant has been made aware of the impervious surface conditional use criteria and has agreed to comply with the storm water treatment conditions.

Councilmember Madden questioned if the storm water plan was approved by the engineering department.

Mr. Link responded that the details of the plan have yet to be worked out, but are required to be approved by the City Engineering department prior to ground disturbance or installation of the pool.

Councilmember Madden verified that the applicant agreed with the conditions of approval.

Motion by Madden, second by Klein, to adopt Resolution No. 09-207 approving a Conditional Use Permit to exceed the maximum impervious coverage for property located at 7036 Dawn Way with the conditions recommended by Planning staff

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; Consider the Second Reading of a Zoning Code Amendment relating to the Maintenance and Repair of Non-Conforming Uses and Structures

Mr. Link stated the City Code should be amended to be consistent with state statutes. He explained the amended language addresses improvements and changes to existing nonconforming uses and structures. He noted the amendment would allow property owners of nonconforming uses and structures more rights and flexibility than what is currently allowed by code.

Frank Rauschnot, 6840 Dixie Avenue, commented that nonconforming uses cost tax payers money and said the City should look at ways to bring the property into compliance rather than continuing to allow nonconforming uses.

Motion by Madden, second by Grannis, to approve the second reading of a Zoning Code Amendment relating to the maintenance and repair of Non-Conforming Uses and Structures

Ayes: 5

Nays: 0 Motion carried.

E. CITY OF INVER GROVE HEIGHTS; Consider the following actions for property along 66th Street, East of Concord Boulevard, adjacent to the swing bridge:

- i) Resolution relating to a Comprehensive Plan Amendment to change the land use designation of the property from Mixed Use to Public Park/Open Space
- ii) An Ordinance Amendment relating to a Rezoning of the property from I-1, Limited Industry to P, Institutional

Mr. Link stated the property is currently zoned I-1, Limited Industry and guided Mixed Use. He explained a change to a Public Park/Open Space designation and rezoning to Park would be consistent with the plan for the future park area associated with the redevelopment of the bridge. He note the Planning Commission reviewed the capital expenditure of funds for the bridge construction and found it to be consistent with the comprehensive plan.

Councilmember Piekarski Krech referred to the aerial photo and asked if the property line depicted was correct.

Mr. Link responded in the affirmative.

Motion by Piekarski Krech, second by Madden, to adopt Resolution No. 09-208 approving a Comprehensive Plan Amendment to change the land use designation of the property from Mixed Use to Public Park/Open Space and to adopt Ordinance 1197 approving a rezoning of the property from I-1, Limited Industry to P, Institutional

Ayes: 5

Nays: 0 Motion carried.

ADMINISTRATION:

F. CITY OF INVER GROVE HEIGHTS; Consider First Reading of an Ordinance relating to Alcohol Server Training Requirements

Mr. Kuntz explained the ordinance would require every employee who serves or sells alcoholic beverages at a licensed liquor establishment within the City to successfully complete an alcohol server training course. He noted temporary licensees and licensed caterers would be exempt from the training requirement. He stated the requirement would become effective July 1, 2010. He explained that course requirements from State Statute were used as the standard for the type of courses required by the ordinance. He reviewed two courses that would meet the requirement for an approved program and referenced several similar courses that other cities have approved, including on-line programs that are readily accessible. He clarified that the ordinance currently requires the training be renewed on a twelve-month interval. He explained the license holder would be responsible for ensuring that every employee completed training and would also need to have evidence of training available upon request by City staff.

Councilmember Madden opined that there should be a reason or an occurrence that triggers the requirement for employees to receive the training. He stated he would not have a problem with requiring new licensees to undergo training. He explained he could not support putting an additional financial burden on licensees that have never had a problem.

Councilmember Piekarski Krech stated that people should be trained before they start serving or selling alcohol. She added she would be in favor of requiring refresher courses, but felt the 12 month interval

may be onerous.

Councilmember Madden commented that the City already has penalties established for licensees that do not comply with the law.

Mayor Tourville stated that a number of other cities also make the training a requirement and noted that most license holders already have their employees trained for insurance purposes. He commented that the training may not need to be renewed annually.

Councilmember Klein stated that the requirements were intrusive on business owners and commented the penalties already in place for violations were sufficient.

Mayor Tourville stated that the City is trying to take a proactive approach rather than always being reactive.

Ed Gunther, 6671 Concord Blvd., stated he has spoken to a number of business owners about the training requirements and found that most already have their employees trained to maintain their liability insurance. He commented that there was concern regarding the requirement that the employee receive training before they can work.

Councilmember Piekarski Krech clarified that the employee can work, but cannot serve or sell alcohol until the training is completed. She noted that there are many on-line courses available at a reasonable cost.

Councilmember Grannis stated he is in favor of the ordinance and asked that staff send the draft ordinance to the Chamber of Commerce and the liquor license holders in the City for feedback prior to the second reading.

Councilmember Madden agreed that he would like feedback from the business owners. He stated if they did not have a problem with the ordinance he would be in favor of it.

Mr. Kuntz stated that he would revise the ordinance to include a 12, 24 or 36 month interval for refresher training.

Motion by Piekarski Krech, second by Grannis, to approve the first reading of an ordinance relating to alcohol server training requirements with a renewal period range of 12, 24 or 36 months and to direct staff to solicit feedback from all liquor license holders regarding the proposed training requirements

Ayes: 4

Nays: 1 (Klein) Motion carried.

G. CITY OF INVER GROVE HEIGHTS; Consider Resolution adopting an Alcohol Sales Compliance Check Policy

Mr. Kuntz stated the proposed policy addresses the City's course of action in the event of an alcohol compliance check failure. He explained the policy would apply to all establishments licensed by the City that serve or sell alcoholic beverages, except for holders of a temporary license or caterer's permit. He stated the police department will conduct compliance checks at least once per year on all establishments subject to the proposed policy to ensure alcohol is not being sold to minors. He explained the compliance checks are meant to be educational and remedial in nature, and are also done to demonstrate the City's objective of enforcement via visibility and follow-up. He stated if a server or sales person serves or sells an alcoholic beverage to an underage person during a compliance check the matter concerning the server or sales person would be referred for prosecution and a formal complaint would be filed. He added that the establishment's owner would be informed of the infraction and required to meet with the police department to review the protocols and procedures in place at the establishment related to the sale of alcohol. He noted the police department would also determine if all servers had received the required alcohol server training, should the proposed ordinance be approved. He explained that the first or second compliance check failure within a thirty month period where the establishment is under the same ownership would not be referred to the Council for imposition of a civil penalty against the owner of the establishment. He further explained that the third and any subsequent infraction relating to either a

compliance check failure or a violation of any State Statute or City Code provision related to the sale of alcohol to an underage person within any thirty month period under the same ownership may be referred to the City Attorney's office for potential criminal charges and will be referred to the City Council for potential imposition of a civil penalty.

Councilmember Klein commented that he would like the police department to consider using people for compliance checks that may appear to be underage but in actuality are not.

Mayor Tourville noted that the police department utilizes people that are underage as well as those that are legal drinking age.

Motion by Madden, second by Piekarski Krech, to adopt Resolution No. 09-209 approving an Alcohol Sales Compliance Check Policy

Ayes: 4

Nays: 1 (Klein) Motion carried.

H. CITY OF INVER GROVE HEIGHTS; Consider First Reading of an Ordinance Regulating the Number and Frequency of Garage Sales

Ms. Teppen stated that the City Council asked staff to prepare an ordinance that would regulate the number and frequency of garage sales. She explained that the Council reviewed similar ordinances from surrounding communities and asked that specific language from each be incorporated into a draft ordinance. She noted that Council further directed that there be a penalty associated with a violation of the proposed ordinance. She stated the City Attorney suggested the Council consider specific language for these regulations that would make a violation a petty misdemeanor.

Councilmember Grannis suggested that the language recognize a violation as a misdemeanor because a judge could rule to reduce the violation to that of a petty misdemeanor.

Councilmember Madden commented that recognition of a violation of a petty misdemeanor was sufficient.

Mayor Tourville suggested that the penalty remain a petty misdemeanor for now and asked that Councilmember Grannis bring information for the Council at the second reading of why it may be beneficial for the City to recognize a violation as a misdemeanor.

Councilmember Klein questioned how staff would be able to discern between a garage sale and a home business.

Mr. Kuntz stated that the zoning administrator

Mayor Tourville stated complaints were received regarding people having garage sales every weekend. He suggested that language be added to make an exception for participation in the city-wide garage sale during Inver Grove Heights Days.

Motion by Madden, second by Tourville, to approve the first reading of an ordinance regulating the number and frequency of garage sales with a provision added to make an exception for participation in the city-wide garage sale during Inver Grove Heights Days.

Ayes: 4

Nays: 1 (Piekarski Krech) Motion carried.

I. CITY OF INVER GROVE HEIGHTS; Consider First Reading of Electric and Gas Franchise Ordinances with Xcel Energy (NSP)

Mr. Kuntz explained that the current Gas and Electric Franchises with Xcel Energy expire at the end of 2009. He stated under state law public utility entities have a right to utilize city streets with certain restrictions. He explained in April of 2009, the Administration and Public Works departments began negotiations with Xcel Energy for new franchise agreements. He noted the new agreements would be in effect for 20 years and would not restrict the City from passing ordinances relating to right-of-way.

Councilmember Piekarski Krech asked if there were any significant changes to the new franchise

agreements.

Mr. Lynch responded that the most significant change is the ability of the City to establish a franchise fee. Councilmember Klein asked what the impact of a franchise fee would be on the consumers in Inver Grove Heights.

Collette Jurek, Xcel Energy, stated that a flat fee would be imposed on the customer's monthly bill.

Councilmember Grannis questioned which areas of the City were served by Xcel Energy.

Ms. Jurek stated she did not have a territory map available. She noted areas of services are set by the public utilities commission.

Councilmember Grannis questioned the language in the agreement relating to the boundaries of service and stated the way it is written it appears that Xcel Energy is being granted a franchise for the entire City even though they only provide service to part of the City.

Mr. Kuntz explained that the boundaries can change per the decision of the public utilities commission.

Councilmember Piekarski Krech pointed out that the lines for Xcel Energy and Dakota Electric coexist and each entity needs to be allowed to run their lines throughout the entire City.

Ms. Jurek noted that the natural gas lines are a non-regulated entity; therefore it is a competitive market.

Motion by Klein, second by Madden, to approve First Reading of Electric and Gas Franchise Ordinances with Xcel Energy (NSP)

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR AND COUNCIL COMMENTS:

Councilmember Klein pointed out that permanent lights are being installed in the roundabout.

Councilmember Madden commented that new roundabouts in Inver Grove Heights and West St. Paul were completed and stated that they work well and have significantly improved the intersections.

Mr. Lynch announced that a meeting was scheduled for Thursday, October 29th at 6:30 p.m. in the Inver Grove Heights Middle School cafeteria to discuss the pedestrian safety study. He also announced a storm water utility informational meeting was scheduled for November 19th at 6:30 p.m. in Community Room one at the VMCC.

Mayor Tourville asked if there were any concerns or updates regarding outstanding construction projects.

Mr. Kaldunski provided an update on each project that was still going on.

9. ADJOURN: Motion by Piekarski Krech, second by Klein, to adjourn. The meeting was adjourned by a unanimous vote at 10:35 p.m.