

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, MARCH 8, 2010 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, March 8, 2010, 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, Public Works Director Thureen, Parks & Recreation Director Carlson, Community Development Director Link, Finance Director Lanoue and Deputy Clerk Rheaume.

3. PRESENTATIONS:

A. Environmental Leadership Award

Barry Underdahl, Street Maintenance Superintendent, explained staff attended the Freshwater Society Road Salt Symposium at which the City was recognized with an Environmental Leadership Award for outstanding efforts to reduce the environmental impacts on winter road maintenance. He stated equipment and product changes made to better control the volume and placement of salt were reasons why the City received the award. He noted the dedication of the crew was a major factor in the City's receipt of the award.

Councilmember Madden thanked staff for all of their work throughout the winter and commended their efforts.

B. Seven Wonders of Engineering Merit Award

Mr. Thureen explained the Minnesota Society of Professional Engineers recognized the City with a merit award for distinguished engineering achievement in the Seven Wonders of Engineering Awards Competition. He stated this was for the scope of work performed on the Northwest Area Trunk Utility Improvements Project.

4. CONSENT AGENDA:

Councilmember Grannis removed Item 4A, Minutes of February 22, 2010 Regular Council Meeting, from the Consent Agenda.

Councilmember Klein removed Item 4F, Approve Purchase of Tables for the VMCC, and Item 4G, Resolution Establishing School Zone Speed Limit, from the Consent Agenda.

Councilmember Piekarski Krech remove Item 4H, Approve Application for MN DNR Trail Grants, from the Consent Agenda.

- B. Resolution No. 10-25** Approving Disbursements for Period Ending March 3, 2010
- C.** Pay Voucher No. 9 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation
- D.** Change Order No. 5 and Pay Voucher No. 7 for City Project No. 2009-09D, South Grove Urban Street Reconstruction – Area 4
- E. Resolution No. 10-26** Accepting Individual Project Order No. 12D to Kimley-Horn & Associates, Inc. for Design Services for the 2010 Pavement Management Program, Urban Street Reconstruction, City Project No. 2010-09D, South Grove Area 5 – Water System Design
- I. Resolution No. 10-30** Approving Temporary Easement Agreement between the City of South Saint Paul and the City of Inver Grove Heights allowing the use of a portion of South Saint Paul Airport Land for City Project No. 2010-09D
- J.** Schedule Public Hearing – New Liquor License
- K.** Schedule Public Hearing – Liquor License Transfer
- L.** Personnel Actions

Motion by Piekarski Krech, second by Klein, to approve the Consent Agenda

Ayes: 5

Nays: 0 Motion carried.

A. Minutes – February 22, 2010 Regular Council Meeting

Councilmember Grannis asked that on page two, under 4N, more detail be added to reflect that Chief Thill also mentioned as reasons for purchase of a new vehicle that: there were additional safety devices on the newer vehicle, the suspension on the current vehicle was in need of repair and did not handle well on curbs, the current vehicle was less stable than newer models because it was a shorter, more narrow vehicle than the new models.

Councilmember Klein also mentioned that the new vehicle had side impact air bags.

Motion by Klein, second by Madden, to approve the minutes of the February 22, 2010 Regular Council Meeting with the changes as noted.

Ayes: 5

Nays: 0 Motion carried.

F. Approve Purchase of Tables for the VMCC

Councilmember Klein commented that he talked to the vendor and found that staff made a very good deal.

Motion by Klein, second by Madden, to approve the Purchase of Tables for the VMCC

Ayes: 5

Nays: 0 Motion carried.

G. Resolution Establishing School Zone Speed Limit

Councilmember Klein stated he wanted to recognize the importance of the speed zone being changed to 20 mph when children are present on 81st Street and on Cahill Avenue.

Motion by Klein, second by Madden, to approve Resolution No. 10-27 Establishing School Zone Speed Limit

Ayes: 5

Nays: 0 Motion carried.

H. Approve Application for MN DNR Trail Grants

Councilmember Piekarski Krech questioned where the matching funds would come from if the City was awarded grant money.

Mr. Carlson recommended that matching funds be taken from the Park Acquisition Fund.

Motion by Klein, second by Madden, to approve Resolutions No. 10-28 & 10-29 approving an application for MN DNR Trail Grants

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

Allan Cederberg, 1162 E. 82nd Street, discussed the proposed format of the upcoming Town Hall meetings. He stated because it is an election year the format should be changed to have at least three Council members attend each meeting to field questions from residents.

Mayor Tourville responded the Town Hall Meetings are meant to provide pertinent City information to residents and would not be turned into a forum for election debates. He noted Council members may be in attendance as they will be noticed as public meetings.

Jim Douglas, 8657 Callahan Trail, questioned if Broderick Boulevard was scheduled to be resurfaced.

Mr. Thureen responded it is not on the schedule for 2010 because engineering staff does not feel that a mill and overlay would solve the problems that are occurring. He stated staff will do what they can to patch and fill certain areas.

Mr. Douglas asked what the completion date is for the new Public Safety building.

Mr. Lynch responded the new building is scheduled to be completed by mid July and renovation of City Hall would proceed after that for approximately 10-11 months.

6. PUBLIC HEARINGS:

A. CITY OF INVER GROVE HEIGHTS; Assessment Hearing for City Project No. 2008-09G, Cahill Avenue/Brooks Boulevard Mill and Overlay

Mr. Kaldunski reviewed the project area and explained 1.03 miles of roads were milled and overlaid with two inches of new bituminous. He stated the total project cost was \$265,033.39. He explained 488 townhome/condo units, 1 single family home, 3 businesses and 4 City properties are proposed to be assessed a total of \$138,311.09. He stated the proposed City cost is \$126,722.30, funded via the Pavement Management Fund. He noted the assessments would be levied to benefiting properties over a 5 year term at a 5.8% interest rate. He reviewed the various adjustments that were made to the assessments. He stated an informational meeting was held for property owners in the project area on February 24, 2010. He stated assessments for property owners in the Fairway Hills Association were discussed and questions were raised regarding equal assessments throughout the association. He explained the typical assessment for a single family parcel would be \$4,100, a range from \$142 to \$366 for multi-family parcels, and a range of \$6,300 to \$11,000 for commercial properties. He stated the recommended cap, based on a market analysis, is \$2,000 for single-family parcels, \$400 for multi-family, and less than \$1 per square foot for commercial parcels. He explained if the assessments for the Fairway Hills association were calculated based on front footage, property owners in area 11 would be assessed \$154.20 per unit and \$301.55 per unit for property owners in area 12. He stated the Council could also opt to have property owners in the association pay an equal amount that would result in every property owner paying \$248.93 per unit. He stated staff recommended the equal assessment option based on feedback from members of the Fairway Hills association board. He noted the assessment roll was created using the front footage methodology for the Fairway Hills areas and the Council would have to continue the hearing to April 12th and send out revised assessments to property owners in areas 11 and 12 if they chose to go with the equal assessment option.

Mr. Kuntz explained if the equal assessment option was pursued the Council would recess or adjourn the hearing to a specific meeting date in April, and staff would publish a notice for the continuation of the public hearing with the revised assessment roll. He noted the property owners for which the proposed assessments changed would receive a mailed notice with the revised dollar amount.

Mr. Kaldunski reviewed the assessment deferment policy and noted deferments are not allowed if the assessment is less than \$300.

Mr. Thureen added that there has been a precedent set in previous projects for spreading assessments equally throughout associations.

Dave Zimmerman, 8315 Cahill Avenue, stated the start of the project was 50 feet from his driveway. He explained the initial assessment was based on 348 feet of property and then was reduced. He stated he would like consideration given for the front footage that is unbuildable. He added he does not see how the project increases the value of his property by \$2,000.

Mr. Kaldunski explained the proposed assessment for this property was reduced to \$2,000 because of the recommended cap based on the market analysis. He stated if the front footage was reduced by the suggested 50 feet, the capped amount would still be lower because it equates to a credit of approximately 169 feet.

Mayor Tourville asked staff to continue to work with Mr. Zimmerman.

Jim Douglas, 8657 Callahan Trail, questioned why it appears as though only private streets are being assessed. He questioned why parcels 13, 14, and 15 were not being assessed when they border Cahill Avenue.

Mr. Thureen stated the three referenced instances dealt with single-family homes on public streets. He explained the City looks at the street on which the driveway accesses to determine inclusion in a project. He added that private streets are considered to be private driveways.

Bill Tronsen, 8850 Branson Drive, stated he lives on a street not a driveway. He commented that residents on private streets have to pay for maintenance on those streets and he does not understand why they also have to pay to maintain public streets for which they already pay taxes. He stated he does not have to use Brooks Boulevard or Cahill Avenue to access his property.

Jim Douglas stated the City will probably have to do another mill and overlay in a few years and requested that consideration be given to how the assessments are calculated for areas in which there are private associations that outlet onto public streets.

Kathy Fischer, 3513 67th Street E., stated she is part of the Lakebridge Townhome Association and was asked to attend the meeting by the board to represent the association. She explained they also live on private streets and pay to maintain their private streets. She stated they paid the assessment for the work that was done on 67th Street and that they understood City policy and accepted the fact that they would have to pay for work done on a public street.

Motion by Madden, second by Klein, to continue the public hearing to April 12, 2010 at 7:30 p.m.

Ayes: 5

Nays: 0 Motion carried.

B. CITY OF INVER GROVE HEIGHTS; Consider Resolution Imposing Sanctions upon Off-Sale Intoxicating Liquor License Holder Starz Group Liquor, Inc. dba Starz Liquor

Mr. Kuntz explained the purpose of the hearing was to consider whether or not sanctions should be imposed by the Council upon liquor license holder: Starz Group Liquor, Inc with respect to a matter that occurred on October 17, 2009. He stated the liquor license holder was given notice of the hearing and the opportunity to be present at the hearing and provide evidence to the Council. He explained a resolution was prepared with findings and conclusions for consideration by the Council. He noted the resolution did not include a recommended form of sanction as the Council would determine the parameters of any sanction imposed upon the license holder.

Mayor Tourville opened the hearing.

Attorney Bridget McCauley-Nason provided an overview of the alleged liquor license violation. She stated the alleged violation occurred on October 17, 2009 at the Starz Liquor store located at 5300 South Robert Trail, Suite 600. She explained on October 17, 2009 Inver Grove Heights police officers conducted a compliance check with an underage buyer. She further explained that the underage buyer entered Starz Liquor around 8:00 p.m., selected a 12 pack of Miller Lite beer, and proceeded to purchase the beer from Paul Vue who was working at the store at that time. She stated after the underage buyer left the store with the beer Officer Daniels entered the store and spoke with Mr. Vue who admitted he had sold the beer to the underage buyer and that he had not asked the underage buyer for identification prior to selling him the beer. She explained Paul Vue, the individual who sold the alcohol, was subsequently charged with selling alcohol to an underage minor as a gross misdemeanor offense. She stated on January 25, 2010 Mr. Vue pled guilty to the offense in Dakota County District Court and was sentenced to two years probation to the court, sentenced under a stay of imposition of sentence, and was required to pay a fine, a surcharge and have no same or similar violations. She reviewed the six exhibits prepared for evidentiary purposes and asked the Council to accept Exhibits 1-6 into the record.

Motion by Madden, second by Klein, to receive Exhibits 1-6

Ayes: 5

Nays: 0 Motion carried.

Ms. McCauley-Nason stated this is the second violation of Starz Liquor in the past three years and outlined the minimum penalties that must be imposed as per City Code.

Councilmember Klein asked if it was the same employee who was involved in the first violation.

Ms. McCauley-Nason responded in the negative.

Eh Alex Vue, Starz Liquor, stated what his brother did was wrong and there is no excuse for his actions. He explained he has taken the necessary actions to protect his business going forward.

Councilmember Madden asked if Paul Vue was still employed by Starz Liquor.

Mr. Vue responded in the negative.

Councilmember Madden asked what has been done to avoid another violation.

Mr. Vue responded that his staff is carding every customer that appears to be under the age 40, a technique that was recommended in the Alcohol Server Training course that was required to be completed by every employee as part of the sanctions imposed for the previous violation.

Councilmember Klein asked when Mr. Vue is at the liquor store.

Mr. Vue responded he is generally at the store in the morning and in the evening.

Councilmember Klein commented that Mr. Vue may have to be at the store all of the time to have better control and supervision over his employees and business operations.

Councilmember Grannis asked Mr. Vue what he thought the appropriate sanction would be for the violation.

Mr. Vue responded a penalty is warranted and only asked that the Council not revoke his license.

Councilmember Grannis asked if Mr. Vue felt that his brother was a representative of his business and if his actions were a reflection of the business.

Mr. Vue responded that his brother's actions were not representative of the business because he received the same training as every other employee and chose not to follow the procedure on which he was trained.

Mayor Tourville asked if the business had complied with the new alcohol server training requirements.

Ms. Rheaume responded that all employees have until July 1, 2010 to comply with the new regulations.

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

Ayes: 5

Nays: 0 Motion carried.

Councilmember Piekarski Krech suggested imposing a sanction of a \$2,000 fine and a 1-day license suspension.

Councilmember Grannis agreed with the \$2,000 fine and opined that the license suspension should be for a longer period.

Councilmember Madden stated he would support a 3-day suspension in addition to the monetary penalty.

Councilmember Grannis questioned who would decide which days the license suspension applied to.

Mr. Kuntz responded the dates for any imposed license suspension would be at the discretion of the Council.

Mayor Tourville agreed with the \$2,000 fine and stated that the Council needed to remain fair and not become arbitrary with respect to the length of the license suspension. He opined that the Council should require that employees complete another Alcohol Server Training course.

Councilmember Klein suggested a six day suspension during which employees could complete the

training course.

Councilmember Piekarski Krech suggested a 6-day suspension with 3 days stayed if they pay the fine, complete the Alcohol Server Training course and there are no additional violations within one year.

Motion by Grannis, to impose a \$2,000 fine and a 6-day license suspension.

Councilmember Madden noted he thinks it is a serious violation but would not support that period for suspension.

Motion failed due to lack of a second.

Mayor Tourville supported the 6-day suspension with 3 days stayed if there were no more violations for one year. He suggested that the days of suspension be consecutive and that the Alcohol Server Training program be completed within the next 60 days.

Councilmember Piekarski Krech suggested suspending the license on April 8, 9 and 10th.

Motion by Piekarski Krech, second by Klein, to impose a \$2,000 civil penalty to be paid on or before March 31, 2010 and a six (6) day suspension of Starz Group Liquor Inc. dba Starz Liquor's Off-Sale Liquor License with a three (3) day suspension on April 8, 9, 10, 2010 and the remaining three (3) day suspension stayed for a period of one (1) year provided that: the entire monetary civil penalty is paid in entirety on or before March 31, 2010; all individuals working at Starz Group Liquor, Inc., dba Starz Liquor who are engaged in the sale of alcohol must complete Alcohol Server Training at the sole expense of Starz Group Liquor, Inc. dba Starz Liquor by May 7, 2010, and proof of completion of the training by all employees must provided to the City Clerk by May 14, 2010; and that there are no additional liquor license violations within the next one (1) year from the date of the hearing.

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

PARKS AND RECREATION:

A. CITY OF INVER GROVE HEIGHTS; Consider Approval of the Rock Island Swing Bridge Master Plan

Mr. Lynch noted that a letter was submitted for the Council from River Heights Marina.

Mr. Carlson reviewed the City's plans to transform the Rock Island Swing Bridge into a recreational pier and the acquisition of 21.53 acres of property associated with that site. He explained SEH, Inc. helped develop a master plan for the property that would allow for a public park use. He explained that a Phase I Environmental analysis was completed on the property and no recognized environmental conditions were discovered with the exception of evidence of a couple potential issues that require further investigation. He stated the City is seeking quotes for a Phase II Environmental analysis.

Mr. Carlson explained the Parks and Recreation Advisory Commission appointed a subcommittee of itself to develop the master plan. He stated the master plan includes some off street parking, a public building with restrooms, a picnic shelter, trails connecting the Rock Island Swing Bridge with the Mississippi River Regional Trail, lighting, a public boat launch on the river and historical interpretation opportunities on the site. He noted the Parks and Recreation Advisory Commission recommended adoption of the master plan with the removal of the public boat launch along with the associated parking. He stated the engineer's estimated total cost for the project as proposed is \$3.6 million dollars, and the City's estimated portion would be approximately \$1.9 million dollars. He noted the removal of the public boat launch and associated parking would result in a reduction of approximately one million dollars.

Councilmember Grannis asked what Mr. Carlson's opinion was on the public boat launch and stated he thought one of the original selling points of the site was the potential for public boat launch.

Mr. Carlson concurred with the Parks and Recreation Advisory Commission's recommendation because the area is very shallow and would take a lot of work at a significant cost to establish and maintain a boat launch. He added that there are also a number of other private boat launches nearby.

Councilmember Klein clarified there is an existing public boat launch located in close proximity to the site.

Councilmember Grannis asked if the boat launch was taken out if it could be put back in at a later date.

Mr. Carlson stated it could be put back in provided that space is not taken up.

Councilmember Madden clarified that more parking could be added.

Joe Harms, River Heights Marina, stated his thoughts and views were outlined in his letter the Council. He commented on the safety issues associated with a public boat launch given the close proximity to the marina.

Motion by Madden, second by Piekarski Krech, to receive the letter dated March 5, 2010 from Paul and Joe Harms

Ayes: 5

Nays: 0 Motion carried.

Motion by Madden, second by Piekarski Krech, to approve the Rock Island Swing Bridge Master Plan

Ayes: 5

Nays: 0 Motion carried.

COMMUNITY DEVELOPMENT:

B. CITY OF INVER GROVE HEIGHTS; Consider Resolution Authorizing Staff to Acquire Property Located at the Southeast Corner of 80th Street and Barbara Avenue from the Minnesota Department of Transportation

Mr. Link stated the property is currently owned by Mn/DOT and the City expressed interest in acquiring it. He explained an appraisal was done and a value of \$337,000 was placed on the property. He stated an offer was made to the State to acquire the property for the appraised value and the offer was subsequently accepted. He explained the City has not yet identified a specific use of the property, but has considered the possibility of additional parking for incorporation into the City's campus. He stated the deed would have a condition that the property would have to be used for a public purpose, and noted the property is currently zoned Public-Institutional.

Mr. Kuntz explained under statute the State has no choice but to place the public use restriction on the deed in order to convey it to the City. He noted that neither the statute nor the deed contains a reversionary clause. He stated the title company the City is using has agreed that, if the City passed a resolution at a later date declaring that the property (or a portion thereof) was no longer need for a public purpose they would insure over that condition and pass a clear title on to the buyer.

Councilmember Grannis asked if the appraiser was aware of the use restriction on the property.

Mr. Link responded in the negative.

Councilmember Grannis asked if that would affect the appraised value.

Mr. Link stated he did not think it would have an impact as it does not limit the City's use of the property.

Mr. Lynch noted that the State's appraised value of the property was \$440,000 and they were aware of the restriction.

Motion by Madden, second by Klein, to adopt Resolution No. 10-32 Authorizing Staff to Acquire Property Located at the Southeast Corner of 80th Street and Barbara Avenue from the Minnesota Department of Transportation

Councilmember Piekarski Krech stated it is too much money for a parking lot.

Ayes: 4

Nays: 1 (Piekarski Krech) Motion carried.

ADMINISTRATION:

C. CITY OF INVER GROVE HEIGHTS; Approve Purchase of Software, Hardware and Consulting Services for a Data Center Consolidation for the City's Desktop and Server Infrastructure

Mr. Lynch stated the item was also discussed at a previous Council work session. He explained it has been ten or more years since changes were made to the City's technology system. He stated that staff worked with a consultant, CVT, to inventory the City's current hardware and software and perform a comparative analysis. He stated a plan was developed to update the current system by the time staff returns to the remodeled City Hall. He noted the hardware and software recommended by CVT are part of the state bid so the price is not dependent upon the consultant the City works with. He stated staff recommended proceeding and entering into a professional services agreement with CVT.

Councilmember Piekarski Krech confirmed the plan was developed to be compatible in the new buildings.

Mayor Tourville stated he would like to see guidelines and specifications put in place so it is clear what the City will be receiving on the state contract.

Motion by Klein, second by Piekarski Krech, to Approve Purchase of Software, Hardware and Consulting Services for a Data Center Consolidation for the City's Desktop and Server Infrastructure

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; Consider Third Reading of Ordinance Amending Title 4, Chapter 7 of the City Code relating to Charitable Gambling Requirements

Mr. Kuntz stated this is the third and final reading for the restatement of the City's charitable gambling requirements. He explained the updated ordinance includes a change in policy to require that 60% of an organization's lawful purpose expenditures be made within the City's defined trade area, whereas the previous requirement was 20%. He noted no changes have been made to the ordinance since the second reading.

Motion by Madden second by Grannis, to approve Ordinance No. 1206 Amending Title 4, Chapter 7 of the City Code relating to Charitable Gambling Requirements

Ayes: 5

Nays: 0 Motion carried.

E. CITY OF INVER GROVE HEIGHTS; Consider First Reading of an Ordinance Amending Title 5, Chapter 4, of the City Code relating to Animal Control

Ms. Teppen explained the revisions are due to the desire to make some changes to the City's current animal licensing guidelines. She noted the proposed amendment was posted on the City's website, outlined in the Insights newsletter and a press release was prepared. She stated no comments had been received to date.

Councilmember Piekarski Krech stated she would like clarifications regarding the state statute definition of a potentially dangerous dog, veterinarian recommendations on the proposed rabies vaccination schedule, and what it means for a dog to be under restraint. She stated that citizens need to know what the regulations are and what the regulations mean. She asked if that information could be put together and brought back at another meeting.

Mayor Tourville suggested asking local veterinarians for input on vaccinations.

No Action was Taken on this Item.

PUBLIC WORKS:

F. CITY OF INVER GROVE HEIGHTS; Consider Resolution Approving a Compromise Agreement, Settlement Stipulation, Order and Judgment between Watrud Properties, LLC and the City relating to City Project No. 2003-03 (PID# 20-28400-012-01)

G. CITY OF INVER GROVE HEIGHTS; Consider Resolution Approving a Waiver Agreement, Settlement Stipulation, Order and Judgment between Watrud Properties, LLC and the City relating to City Project No. 2003-03 (PID# 20-28401-010-00)

Mr. Kuntz explained that for the first case the proposed settlement would result in an 8% reduction of the original assessment. He stated the recommendation is to approve the settlement.

Mr. Kuntz explained the second case deals with a parcel that is 62% undevelopable because it contains a wetland. He stated they are recommending approval of the settlement presented.

Motion by Piekarski Krech, second by Klein, to adopt Resolution No. 10-33 Approving a Compromise Agreement, Settlement Stipulation, Order and Judgment between Watrud Properties, LLC and the City relating to City Project No. 2003-03 (PID# 20-28400-012-01) & 10-34 Approving a Waiver Agreement, Settlement Stipulation, Order and Judgment between Watrud Properties, LLC and the City relating to City Project No. 2003-03 (PID# 20-28401-010-00)

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Mr. Lynch announced a Town Hall meeting was scheduled for March 15th from 6-7:30 p.m.

Councilmember Grannis reminded citizens that commission applications are available on the website.

Mayor Tourville stated the Council will be meeting in executive session to discuss Doffing Avenue property acquisitions and will only be adjourning when they come back.

9. EXECUTIVE SESSION:

A. Doffing Avenue Property Acquisitions

10. ADJOURN: Motion by Klein, second by Grannis, to adjourn. The meeting was adjourned by a unanimous vote at 10: 15 p.m.