

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, SEPTEMBER 27, 2010 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, September 27, 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: None.

4. CONSENT AGENDA:

Citizen Mark Colburn removed Item 4I, Resolution Accepting Bids and Awarding Contract for the 2010 Pavement Management Program, City Project No. 2010-09C – Mill and Overlay, from the Consent Agenda.

Councilmember Grannis removed Item 4J, Approve Proposal from Braun Intertec to prepare Response Action Plan Implementation Report for Heritage Village Park, from the Consent Agenda.

Councilmember Madden removed Item 4K, Accept Proposal for Engineering Services for Design, Construction Administration & Testing Services – Repair of Water Intrusion Damage in the Public Works Maintenance Building, from the Consent Agenda.

Citizen Rick Matthes removed Item 4O, Consider Non-Commercial Kennel License Application – 7745 Boyd Avenue, from the Consent Agenda.

- A.** Minutes – September 13, 2010 Regular Council Meeting
- B.** **Resolution No. 10-152** Approving Disbursements for Period Ending September 22, 2010
- C.** Pay Voucher No. 1 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation – Dascom Systems Group LLC
- D.** Pay Voucher No. 2 for City Project No. 2008-18, Public Safety Additon/City Hall Renovation – Dascom Systems Group LLC
- E.** Pay Voucher No. 5 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation – TRICOM Communications
- F.** Change Order No. 4 and Pay Voucher No. 4 for City Project No. 2010-09D, South Grove Street Reconstruction - Area 5
- G.** Final Compensating Change Order No. 6, Final Pay Voucher No. 8, Engineer's Report of Final Acceptance and **Resolution No. 10-153** Accepting Work for City Project No. 2008-09F, Salem Hills Farm Street Reconstruction/Mill and Overlay
- H.** **Resolution No. 10-154** Accepting Individual Project Order No. 12F to Kimley-Horn & Associates, Inc. for Preparation of Easement Exhibits and Descriptions for the Pavement Management Program, Urban Street Reconstruction – City Project No. 2009-09D (South Grove Area 4)
- L.** Consider Awarding the Replacement of the Front Parking Apron of Fire Station #1 to Bailey Construction
- M.** Accept Donation to Inver Grove Heights Police Department from Wal-Mart Foundation
- N.** **Resolution No. 10-156** Authorizing Execution of the Joint Traffic Safety Project Grant
- P.** **Resolution No. 10-157** Approving Application of CLIMB Theatre, Inc. for a Premises Permit to Conduct Lawful Purpose Gambling at Baja Sol Cantina, 5681 Blaine Ave.

Q. Schedule Public Hearing – Liquor License (Eddy’s Bar & Grill, LLC)

R. Personnel Actions

Motion by Klein, second by Grannis, to Approve the Consent Agenda

Ayes: 5

Nays: 0 Motion carried.

I. Resolution Accepting Bids and Awarding Contract for the 2010 Pavement Management Program, City Project No. 2010-09C, Mill and Overlay

Mr. Kaldunski stated the item being considered is a resolution accepting bids and awarding a contract for the mill and overlay project on Blaine Avenue. He explained the low bid of \$167,839.05 was submitted by Northwest Asphalt, Inc. He noted if the contract was awarded the contractor would be ready to start work on the project October 4th. He stated the bid was 18% lower than the engineer’s estimate.

Mark Colburn, 5986 Blaine Avenue, asked when the assessments would be finalized.

Mayor Tourville explained an assessment hearing would be scheduled after the project is finished and the final costs are known.

Motion by Madden, second by Klein, to Adopt Resolution No. 10-155 Accepting Bids and Awarding Contract for the 2010 Pavement Management Program, City Project No. 2010-09C, Mill and Overlay to Northwest Asphalt, Inc. in the amount of \$167,839.05

Ayes: 5

Nays: 0 Motion carried.

J. Approve Proposal from Braun Intertec to Prepare Response Action Plan Implementation Report for Heritage Village Park

Councilmember Grannis stated he would not be in favor of hiring Braun Intertec because of the issues that occurred with the soil testing done at Skyview Park. He explained the mistake that was made cost the City additional money.

Motion by Madden, second by Piekarski Krech, to Approve Proposal from Braun Intertec to Prepare Response Action Plan Implementation Report for Heritage Village Park

Ayes: 4

Nays: 1 (Grannis) Motion carried.

K. Accept Proposal for Engineering Services for Design, Construction Administration & Testing Services – Repair of Water Intrusion Damage in the Public Works Maintenance Building

Councilmember Madden referred to the staff report and questioned if the proposal would fix the problem for a while or if there would be additional requests and costs in the future to repair the damage.

Mr. Thureen stated this proposal is only for the consulting services. He explained staff would come back with a request to award a contract after bids are received for the actual construction repair work.

Motion by Madden, second by Grannis, to Accept Proposal for Engineering Services for Design, Construction Administration & Testing Services – Repair of Water Intrusion Damage in the Public Works Maintenance Building

Ayes: 5

Nays: 0 Motion carried.

O. Consider Non-Commercial Kennel License Application – 7745 Boyd Ave.

Ms. Rheume explained the city code currently allows property owners to house three dogs. She stated that anyone that would like to keep four or more dogs, primarily as pets, has to apply for non-commercial

kennel license. She reviewed the provisions of the code that are in place to regulate non-commercial kennel licensees. She explained that property owners within 1,000 feet of the property were sent a notice regarding the proposed issuance of the non-commercial kennel license and indicated that a number of comments and questions were received.

Suzette Weller, 7745 Boyd Avenue, stated she has three dogs and the two additional dogs would be living with her temporarily. She explained that her daughter moved in with her and brought her two dogs. She indicated they were not aware that a kennel license was required. She stated her dogs are small house dogs and her daughter's dogs go outside approximately twice a day. She noted that the dogs have their own individual kennels inside the house and they are never left outside for extended periods of time without supervision.

Sindy Osterman, 7755 Boyd Ave. E., stated she is the applicant's next door neighbor and opposed the approval of a kennel license. She expressed concerns regarding excessive barking and the proper clean-up of waste in her neighbor's yard.

Rick Matthes, 2735 78th St. E., stated he lived behind the applicant. He indicated there were noise issues in the past, and noted that the dogs have been well behaved recently. He stated that the smaller dogs are not outside very often.

Mayor Tourville explained five emails were received between Friday and Monday from residents that were opposed to the kennel license.

Motion by Madden, second by Klein, to receive letters of opposition from Don & Renee Weirick, Dan Osterman, Dennis Ward, Jeffrey Huebscher, and John Sobaski

Ayes: 5

Nays: 0 Motion carried.

Ms. Weller stated the noise issues her neighbor referred to were many years ago with different dogs.

Ms. Osterman indicated that she lives downhill from the subject property and opined that when it rains the waste from the applicant's yard runs downhill into her yard and pool. She noted that she called the health department because of the smell and e-coli in her pool and was afraid that the conditions could be harmful to her family's health.

Ms. Weller explained that she has a sandbox on her property and the sand has started to wash onto her neighbor's property. She stated that the dog waste in her yard is cleaned up regularly.

Mr. Matthes stated he has not had any similar problems.

Councilmember Madden stated he was concerned about establishing a precedent.

Councilmember Grannis questioned if other non-commercial kennel licenses were granted in similar situations.

Ms. Rheaume explained this is the first application being considered since the revisions were made to the animal control ordinance. She stated non-commercial kennel licenses were granted in the past, however applicants were required to obtain written concurrence from neighbors within 500 feet of the subject property.

Councilmember Piekarski Krech reiterated that the licenses approved in the past all had concurrence from the neighbors and there were no health or noise concerns.

Councilmember Klein stated he is concerned because there were so many neighbors opposed to the approval of the license.

A resident of 7745 Boyd Avenue stated there are a lot of dogs in the neighborhood. He explained some of the comments that were received referenced general animal control concerns and were not specific to their dogs. He indicated that the dogs are let out into a fenced yard and are always on a leash when they

are taken for walks. He noted the waste is always cleaned up before the lawn is mowed. He reiterated that the two additional dogs would only be living at the house temporarily. He commented that the noise concerns could be directed at the whole neighborhood, not just his dogs.

Councilmember Madden stated when he went to the house and knocked on the door he could hear the dogs inside and noted he was not able to hear the barking by the time he got to the street. He explained that the neighbor's opinions have to be considered and opined that five dogs at one property is too many to have in this neighborhood.

Councilmember Piekarski Krech opined that the major issue is that the neighbors have indicated their opposition to the issuance of the license.

Mayor Tourville suggested that the Council could consider giving the owner some time to find a suitable home for two of the dogs.

The City Council directed that the applicant would be given thirty days to reduce the number of dogs being housed on the property from five (5) to three (3).

Motion by Klein, second by Madden, to deny Non-Commercial Kennel License Application for property located at 7745 Boyd Ave. because the density of the neighborhood is too great to accommodate additional animals beyond the maximum allowed as per City Code, the existence of a demonstrable pattern of habitual barking issues, and odor concerns.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

Joe Harms, 4455 65th Street, recommended that the City Council visit the project site to view the siltation problems. He stated he was told by both the DNR and Army Corps of Engineers that there had been no on-site conversations with the City and that they had not been to the site to witness any of the siltation problems.

Mr. Lynch responded that the City has letters from both agencies that confirm the meeting and address the siltation concern. He indicated that the issue would be discussed at the October 11th City Council meeting.

6. PUBLIC HEARINGS:

A. CITY OF INVER GROVE HEIGHTS; Consider Resolution Ordering Improvements and Approving Plans and Specifications for City Project No. 2010-21, Boyd Avenue Street Lighting

Mr. Kaldunski stated the project was initiated by a petition, signed by 14 of the 24 residents, from the Boyd Avenue neighborhood between 80th Street and 79th Street. He explained the residents requested that four street lights be installed, one at Boyd Avenue East and Upper 79th Court East, and two by the existing crosswalks at Boyd Avenue East and 80th Street East. He stated the petition is seeking street lights for pedestrian traffic going to schools in the area.

Mr. Kaldunski stated a proposal was received from Xcel Energy for the installation of four, 100W cobra cut-off fixtures on 30-foot buried fiber glass poles. He noted that the installation of wiring would be done by directional boring. He estimated that the total cost of the project would be approximately \$12,250 for the four street lights, including construction, engineering, and administrative costs. He stated funding sources included 100% special assessments, approximately \$6,125 or \$255.29 per resident, for two area benefit lights at 79th Street East and Upper 79th Court East. He noted that the City would cover the costs associated with safety and thoroughfare lighting at 80th Street, approximately \$6,125, via the street lighting budget. He explained a quarterly service rate for the electric power usage to the benefit area would be collected from the residents if approved. He reviewed the City's policy relating to the installation of street lights and the payment of installation and operating expenses.

Councilmember Grannis questioned what the criteria were for designation as a collector street.

Mr. Kaldunski indicated that collector street designations come from MnDOT. He discussed comments received from residents during an informational meeting that was held regarding the project. He stated one resident felt no benefit was justified where a light exists and several residents questioned if the school should be assessed for the lights and required to pay the quarterly electrical costs. He noted engineering was informed that a light had previously existed at Upper 79th Court East from 1986 to 2007 until the landowners stopped paying for the service and the utility company removed the light. He explained several residents felt the location warranted additional City funding and safety consideration due to the high volume of traffic in the area that is associated with various school activities. He stated many of the residents were in favor of the additional lighting, although some expressed concerns regarding the proposed quarterly fee for electrical use.

Motion by Klein, second by Madden, to receive letter from John & Donna Patterson, 7900 Boyd Avenue

Ayes: 5

Nays: 0 Motion carried.

Councilmember Klein stated there is a high volume of traffic in the area and significant safety issues associated with the school crossing. He noted that additional lighting was overdue in this location and opined that the City should fund the total cost of the project because it is safety lighting. He questioned when the project could be completed.

Mr. Kaldunski responded that the quotes are for installation of the lights this fall.

Bill McClean, 7935 Boyd Avenue, stated he initiated the petition. He explained the original intent was to increase the safety for the children walking to and from school. He stated there is a lot of pedestrian and vehicular traffic on Boyd Avenue and the lack of street lights present a big safety issue during the school year. He supported the installation of the lights and asked that the City consider paying the total cost of the project because of the safety concerns.

Elizabeth LaPointe, 2879 80th St. E., stated the additional lights would not benefit her property. She explained that she is on a limited income and would only support the project if it was funded by the City.

Councilmember Piekarski Krech asked if the quarterly cost for electrical would still be charged if the City funded the entire project.

Councilmember Klein commented that the quarterly fee for electrical use should be retained.

Councilmember Madden opined that this is a safety issue and he would like to see the City pay for the project.

Mr. Thureen indicated the electrical use fee could still be charged if the City funded the entire project.

Sindy Osterman, 7755 Boyd Ave. E., stated that the corner of 80th Street and Boyd Avenue is not safe and the additional lighting is needed.

Allan Cederberg, 1162 E. 82nd St., stated he is concerned about setting a precedent. He explained that if the City pays for the project they will be expected to pay for future street lighting requests.

Mayor Tourville responded that not all street lighting requests would be for intersections that are major school crossings.

Mr. Thureen stated he currently only has enough money in the budget for three street lights.

Councilmember Piekarski Krech suggested using discretionary money to pay for two of the lights that were proposed to be paid for through special assessments, and the street lighting budget could fund the other two.

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

Ayes: 5

Nays: 0 Motion carried.

Mr. Cedarburg suggested installing stop signs on 80th Street to control the intersection.

Councilmember Piekarski Krech stated that 80th Street is a county road.

Motion by Piekarski Krech, second by Madden, to adopt Resolution No. 10-158 Ordering Improvements and Approving Plans and Specifications for City Project No. 2010-21, Boyd Avenue Street Lighting with a 100% City Contribution via discretionary funds and the street lighting budget.

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. MAX STEININGER; Consider the following request for the property located at 11305 Clark Road:

- i) An Ordinance Approving a Temporary Sand and Gravel Zoning Extension
- ii) A Conditional Use Permit Amendment for the Processing of Sand and Gravel and Processing of Recycled Concrete and Asphalt
- iii) An Interim Use Permit Extension to Allow a Temporary Contractor's Yard with Outdoor Storage

Mr. Link stated the applicant requested an extension of their Sand and Gravel Overlay Zoning District designation for an additional ten (10) years. He noted the extension of the conditional use permit and interim use permit would remain active until the sand and gravel zoning was requested to be terminated by the land owner. He explained the original sand and gravel zoning was approved in 1999 and a specific term of the approval was not specified in the resolution but the original submittal packet called for an approval period of 10 years. He stated the applicant is proposing to increase the total volume of material to be removed by 55,000 cubic yards because there is no longer the need to reserve an area for a septic system. He noted that no changes are being proposed to the operation, only the time frame and volume increase.

Mr. Link explained the revised final land use plan shows the property would be graded down to a level elevation and left as one lot on either side of Clark Road to provide ample area for future industrial development. He stated the City Engineer reviewed the plans and supported the plan based on the amount of excess topsoil in the berms on the property would be sufficient to fill the lot on the east side of Clark Road to the proposed elevations. He explained staff supported approval of the requests with a five year extension because it would be consistent with the approvals that have been given to other sand and gravel operations. He stated both the Planning and Environmental Commissions recommended approval of the requests with a ten year extension.

Councilmember Klein stated that the Steiningers own the property and would develop at their discretion. He opined that he did not see a problem with granting the ten year extension period.

Mr. Link responded that a five year extension is typical to account for the possibility of development.

Councilmember Madden agreed that a ten year extension period should be granted. He opined that once the economy improves the property value will increase and the applicant will be able to sell.

Greg Steininger, applicant, explained a ten year extension was requested because they did not want to go through the permit process again. He stated the process took a lot of time and effort and the costs associated with the process were also a factor in their request. He clarified that they are open to selling the property if the right offer comes along.

Motion by Madden, second by Klein, to adopt Ordinance No. 1218 approving a Temporary Sand and Gravel Zoning Extension, Resolution No. 10-159 approving a Conditional Use Permit Amendment for the Processing of Sand and Gravel and Processing of Recycled Concrete and Asphalt, and Resolution No. 10-160 approving an Interim Use Permit Extension to Allow a Temporary Contractor's Yard with Outdoor Storage for a Ten (10) Year Approval Period

Ayes: 5

Nays: 0 Motion carried.

B. ALLIED WASTE RECYCLERY; Consider a Resolution Approving a Conditional Use Permit Amendment for a Recycling Facility and Transfer Station for Recyclable Materials for property located at 2795 117th Street

Mr. Link reviewed the location of the property and explained the applicant has proposed an amendment to the approved site plan to change truck circulation along the front of the building. He stated the change in circulation would result in a change to the traffic patterns providing stacking and queuing on the property rather than on 117th Street. He noted the change would improve traffic safety. He stated both Planning staff and the Planning Commission recommended approval of the request.

Motion by Klein, second by Grannis, to adopt Resolution No. 10-161 approving a Conditional Use Permit Amendment for a Recycling Facility and Transfer Station for Recyclable Materials for property located at 2795 117th Street

Ayes: 5

Nays: 0 Motion carried.

C. CITY OF INVER GROVE HEIGHTS; Consider a Resolution creating a Permanent Housing Committee

Mr. Link reviewed that the City Council adopted a resolution receiving the 2010 Housing Action Plan Report and Recommendations as presented by the Housing Task Force at the July 12, 2010 council meeting. He stated Council then directed staff to prepare a resolution to form a permanent Housing Committee that would be appointed by the Council. He explained staff prepared a resolution recommending that a group of five (5) individuals serve on the committee, that the group meet at least quarterly, and that the primary function of the group would be to research and make recommendations relative to the Housing Action Plan and housing issues that may be of interest to the City Council. He noted that the committee would be considered a public body that would be subject to open meeting laws and would have minutes and noticed agendas. He stated that staff would begin to notify the public regarding the committee and accept applications from interested residents. He added that staff would bring a list of applicants to the Council for consideration by the end of the year, and the committee would be expected to hold their first meeting in early 2011.

Councilmember Grannis asked if staff feels there is a need for a housing committee.

Mr. Link responded that staff supports the formation of the committee. He stated housing is an important issue for the City to stay up to date and focused on.

Mr. Lynch explained that the City does not have a short term solution in place to deal with and address housing issues. He noted the committee would not have taxing authority and a budget would have to be approved by the City Council.

Councilmember Grannis suggested that the meeting requirements be left open-ended so the committee could meet on an as-needed basis rather than mandating quarterly meetings.

Mr. Lynch responded that applicants need to have an idea of the commitment level that is expected and how often the committee would meet.

Allan Cederberg, 1162 E. 82nd Street, stated he is disappointed that they have to wait until next year to get the committee formed. He noted staff already has a list of people interested in serving and asked that the

process be expedited.

Mayor Tourville indicated that staff would go through the process as quickly as they are able.

Motion by Piekarski Krech, second by Tourville, to adopt Resolution No. 10-162 creating a Permanent Housing Committee

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; Consider First Reading of an Ordinance Establishing Minimum Requirements for the Regulation of Subsurface Sewage Treatment Systems

Mr. Link explained that the City has completed revisions to the existing Subsurface Sewage Treatment System ordinance in order to comply with State and County regulations. He noted that state law mandates that the City adopt the Dakota County or equivalent code document within one calendar year of the County's adoption. He explained the revisions to the ordinance accommodate all of the new rules from both the State and County code updates, bring forth several historical amendments, and create new performance requirements for effluent screens and certifications.

Mayor Tourville asked if staff could provide the Council with an outline of the differences between the City's proposed ordinance and the regulations adopted by other cities.

Allan Cederberg, 1162 E. 82nd Street, questioned if existing septic systems would be subject to the new regulations.

Mr. Link indicated that any changes to the current ordinance would not apply to existing systems.

Motion by Piekarski Krech, second by Klein, to approve the First Reading of an Ordinance Establishing Minimum Requirements for the Regulation of Subsurface Sewage Treatment Systems

Ayes: 5

Nays: 0 Motion carried.

ADMINISTRATION:

E. CITY OF INVER GROVE HEIGHTS; Consider Change Order No. 14 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation

Ms. Teppen stated the nine items included on the change order total \$13,966.10. She noted the revised contract total is \$11,877,238.10 and the project contingency has a balance of \$246,152.90. She explained that 61% of the contingency has been expended and 75% of the construction has been completed.

Councilmember Piekarski Krech questioned why the backdraft damper for the boiler and water heater was not included in the original plans and specifications.

Mr. Greg Metz, BKV Group, stated the electrical equipment was larger than anticipated and the electrical room was subsequently reconfigured. He explained that rather than rearranging all of the mechanical systems the supply and exhaust were reversed, and the backdraft damper was the least expensive method to do that as it allows the exhaust to be contained on the wall without duct work.

Councilmember Piekarski Krech questioned why we received mechanical equipment that was larger than anticipated.

Mr. Metz responded that the mechanical equipment that is planned for and included in the original specifications is frequently changed when alternates are chosen and ordered for the project. He stated this

occurs frequently in public projects. He explained that equipment comes in many different sizes and architects have to pick a product, design to those criteria and then adapt as things change throughout the course of the project.

Mayor Tourville questioned why the City would need to request that a berm be created to divert potential storm water overflow. He stated the storm water plan should have been designed correctly from the start.

Mr. Lynch stated the City is the local governmental unit responsible for storm water management and the implementation of rules and regulations. He explained City staff felt that the proposed change would be a belt and suspender system that could be implemented to comply with storm water regulations and protect the front of the building from flooding.

Mayor Tourville stated he understood and agreed that the City should protect the building from flooding. He questioned why the City had to plan for that protection after the fact.

Councilmember Piekarski Krech agreed that the architects should have figured out how to protect the building from storm water before the building was constructed, not after it has already flooded.

Jack, BKV Group, stated there has been a lot of work done by everyone involved to make sure that the building does not flood again. He commented that the flooding that occurred was a construction phasing problem, not a final design problem. He explained the issue was not a function of the original design not working, but rather that the original design is not complete. He stated the current on-site conditions led to the flooding. He reiterated that in his estimation the original design will work. He noted that the berm will provide a second level of defense against any future flooding.

Mayor Tourville asked for an update on the conversations with the contractor.

Mr. Lynch explained the City did have to send a notice to the contractor notifying them that they were out of compliance. He stated all of the issues were brought into compliance with the exception of one. He indicated that the routine maintenance was not done and they wanted to make sure it did not back up. He noted the emergency overflow also does not work well.

Mayor Tourville commented on two dead evergreens that were planted in the front of the building and stated that needs to be addressed right away.

Mr. Lynch indicated that they are aware of the issue and it will be taken care of.

Motion by Madden, second by Grannis, to approve Change Order No. 14 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Councilmember Piekarski Krech commented on the success of Fall Clean-Up day and thanked staff from Dakota County, West St. Paul, and Inver Grove Heights that participated in the event.

9. ADJOURN: Motion by Grannis, second by Madden, to adjourn. The meeting was adjourned by a unanimous vote at 9:30 p.m.