

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

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

**4. CONSENT AGENDA:**

Councilmember Piekarski Krech removed Item 4C, Consider Adoption of the Credit Card Acceptance Policy and Procedures, Item 4D, Change Order No. 1 for City Project No. 2009-29 – Well No. 9 Phase 2, and Item 4T, Consider Resolution Allowing a Temporary Change to Hours of Operation to Allow the Storage and Retrieval of Salt for Snow Plowing for Bituminous Roadways, from the Consent Agenda.

Councilmember Grannis removed Item 4P, Approve Additional Services with Braun Intertec for Rock Island Swing Bridge Response Action Plan, from the Consent Agenda.

- A.** Proclaim Week of November 8-14, 2010 as World Kindness Week for School District 197
- B.** **Resolution No. 10-186** Approving Disbursements for Period Ending November 3, 2010
- E.** Pay Voucher No. 1 for City Project No. 2010-12, 59<sup>th</sup> St. E. Street Improvements
- F.** Final Pay Voucher No. 9, Engineer's Final Report and **Resolution No. 10-187** Accepting Work for City Project No. 2008-09D, South Grove Urban Street Reconstruction – Area 3
- G.** Final Compensating Change Order No. 6, Final Pay Voucher No. 9, Engineer's Final Report and **Resolution No. 10-188** Accepting Work for City Project No. 2009-09D – South Grove Urban Street Reconstruction Area 4
- H.** Final Compensating Change Order No. 1, Final Pay Voucher No. 1, Engineer's Final Report and **Resolution No. 10-189** Accepting Work for City Project No. 2010-17, Storm Water Facility Maintenance Program – Zone 5
- I.** Schedule Public Hearing – 2011 Liquor License Renewals
- J.** Pay Voucher No. 6 for City Project No. 2009-24, Rock Island Swing Bridge Project
- K.** Pay Voucher No. 17 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation
- L.** Pay Voucher No. 7 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation – Low Voltage Contractors
- M.** Pay Voucher No. 8 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation – Low Voltage Contractors
- N.** Approve Agreement relating to the Expansion of SP-15 Lying in Outlot F, Argenta Hills, Dakota County, Minnesota, Except that Portion of Outlot F, Argenta Hills Lying within Argenta Hill 2<sup>nd</sup> Addition
- O.** Consider 2011 Proposed Convention and Visitors Bureau Budget
- Q.** Approve Contractors for VMCC/Grove Locker Room Update
- R.** Approve Driveway Easement from City of Inver Grove Heights to Rehtzigel
- S.** Schedule Special Council Meeting on November 29, 2010 at 6:00 p.m.
- U.** **Resolution No. 10-190** Providing for the Sale of Unclaimed Property to a Local Non-Profit Organization

V. **Resolution No. 10-191** Proclaiming Wednesday, November 24, 2010 as Hunger Awareness Day

**Motion by Madden, second by Grannis, to Approve the Consent Agenda**

**Ayes: 5**

**Nays: 0 Motion carried.**

C. Consider Adoption of the Credit Card Acceptance Policy and Procedures

Councilmember Piekarski Krech stated she would not support the policy because the credit card fees would be passed along to residents.

Mayor Tourville commented that more and more cities are accepting credit cards as a convenience to the citizens.

**Motion by Klein, second by Madden, to adopt the Credit Card Acceptance Policy and Procedures**

**Ayes: 4**

**Nays: 1 (Piekarski Krech) Motion carried.**

D. Change Order No. 1 for City Project No. 2009-29, Well No. 9 - Phase 2

Councilmember Piekarski Krech questioned why a credit was not issued if seeding is cheaper than sod.

Mr. Thureen explained the credit would show up in the end on the final pay voucher.

**Motion by Klein, second by Piekarski Krech, to approve Change Order No. 1 for City Project No. 2009-29, Well No. 9 – Phase 2**

**Ayes: 5**

**Nays: 0 Motion carried.**

P. Approve Additional Services with Braun Intertec for Rock Island Swing Bridge Response Action Plan

Councilmember Grannis stated he would vote against the item because of the issue with Braun Intertec on a previous project.

**Motion by Klein, second by Madden, to approve Additional Services with Braun Intertec for Rock Island Swing Bridge Response Action Plan**

**Ayes: 4**

**Nays: 1 (Grannis) Motion carried.**

T. Consider Resolution Allowing a Temporary Change to Hours of Operation to Allow the Storage and Retrieval of Salt for Snow Plowing for Bituminous Roadways

Councilmember Piekarski Krech asked if staff verified with the neighbors that they did not have a problem with the change to the hours of operation.

Mr. Link responded staff's understanding was that was that Bituminous Roadways notified the affected neighbor(s). He noted staff did not confirm notification beyond that.

Councilmember Piekarski Krech suggested that staff verify that the neighbors are aware of the change and do not have issues with the request.

Mayor Tourville stated approval of the request could be contingent on the City contacting the neighbors and verifying that there are no issues with the request.

Bob Heidenreich, 11632 Akron Avenue, stated he is a neighbor and was not contacted. He commented that the operation can be loud at times.

Mr. Link noted that the typical notification radius is 1,000 feet.

Councilmember Klein stated the change was for a limited period of time and would not be occurring on a daily basis.

Councilmember Piekarski Krech opined that the request be tabled to allow staff time to contact neighbors.

**Motion by Piekarski Krech, second by Klein, to table consideration of the Resolution Allowing a Temporary Change to Hours of Operation to Allow the Storage and Retrieval of Salt for Snow Plowing for Bituminous Roadways until November 22, 2010.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**5. PUBLIC COMMENT:**

Ed Gunter, 6671 Concord Boulevard, reported that the final blacktop was laid in South St. Paul.

**6. PUBLIC HEARINGS:**

**A. CITY OF INVER GROVE HEIGHTS;** Assessment Hearing for 2010 Nuisance Abatement Program

Mr. Link explained that various property owners were notified that their properties were out of compliance in a number of different aspects: long grass and weeds, refuse and other nuisance abatement issues. The property owners were told that they needed to bring their properties into compliance or that the City would abate the nuisance and assess the associated costs back to the property. He stated there were approximately fifty cases and all except eight (8) were addressed by the property owner. He stated the assessments ranged from \$136.94 to \$390.03, for a total of \$2,049.65.

Councilmember Piekarski Krech questioned why one property was listed multiple times.

Mr. Link stated the property had multiple instances in which different nuisances were abated.

Councilmember Piekarski Krech clarified that all of the assessments for the property would be merged into one total.

Mr. Link responded in the affirmative.

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

**Ayes: 5**

**Nays: 0      Motion carried.**

**Motion by Grannis, second by Klein, to approve Resolution No. 10-192 adopting the assessment for the 2010 Nuisance Abatement Program**

**Ayes: 5**

**Nays: 0      Motion carried.**

**7. REGULAR AGENDA:**

**COMMUNITY DEVELOPMENT:**

**A. CITY OF INVER GROVE HEIGHTS;** Consider the Third Reading of an Ordinance regulating Outdoor Wood Burners/Boilers

Mr. Link explained the first and second readings of the ordinance were heard on October 11, 2010 and October 25, 2010. He stated the direction Council gave was to proceed with an ordinance that would prohibit future outdoor wood burners/boilers and the use of existing units. He summarized that the ordinance would prohibit a stand alone outdoor wood burner/boiler or a burner in a detached accessory building that transfers or conveys heat to another structure, and would allow a burner to be located in a home or accessory building as long as it only heats the structure it is located in. He noted two emails were received in opposition of the proposed ordinance. He stated staff recommended approval of the proposed ordinance.

Mr. Kuntz noted that the effective date on page 3, item (c) and page 4 of the ordinance is actually December 1, 2010.

Frank Rauschnot, 6840 Dixie Avenue, opined that the proposed ordinance is hypocritical legislation and that the City already has too many rules and regulations. He stated that if the Council approved the proposed ordinance they should also ban fire pits and fire places. He stated the development of the ordinance was a waste of staff's time and opined that there are much more important issues that could be addressed.

Michael Heidenreich, 11632 Akron Ave., stated he conferred with his neighbors regarding the issue and presented the Council with a petition to not ban the use of outdoor wood burners. He noted that 20 residents signed the petition.

**Motion by Madden, second by Grannis, to receive the petition from Michael Heidenreich.**

**Ayes: 5**

**Nays: 0      Motion carried.**

Robert Heidenreich, 11632 Akron Ave., stated that it is a mistake for the Council to get involved in the regulation of outdoor wood burners. He explained he sent the Council an e-mail outlining his opinions and stated he has found that more people are in favor of the use of outdoor wood burners than are opposed.

Councilmember Klein opined that this is a health issue. He stated part of the Council's responsibility is to protect the health of the citizens.

Mr. Heidenreich stated that burning wood is carbon-neutral and is less damaging than burning fossil fuels or coal. He opined that it is unfair to eliminate the use of outdoor wood burners. He stated if outdoor wood burners are going to be banned, the City should also ban fire pits.

Councilmember Madden stated the smoke from the outdoor wood burners is a nuisance when it invades the property of others and causes health hazards.

Mayor Tourville stated the problem is not as easy to solve as people may think. He commented that the Council has received many complaints.

Mr. Heidenreich suggested implementing a permit process.

Sandra Larson, 7038 Angus Ave., asked the Council to reconsider banning the six (6) existing wood burners in the City. She stated that the smoke does not get in the house. She explained that this is her main source of heat in the winter. She noted her neighbors also signed a petition indicating that they do not have any problems with her unit.

David Gaydos, 11660 Albavar Path, supported the adoption of the ordinance as proposed.

Armando Lissarague, 11730 Albavar Path, commented on the dangers and health risks associated with the inhalation of smoke from outdoor wood burners.

Councilmember Klein questioned how many other cities have banned outdoor wood burners.

Mr. Link responded that he did not know the exact number. He stated six (6) surrounding cities were surveyed and most have prohibited outdoor wood burners and some decided to allow their use with conditions.

Loren Scherff, 1320 105<sup>th</sup> Street East, suggested considering the proximity of the unit to neighbors. He stated he does not see outdoor wood burners as a threat when they are far away or in areas of the City where properties are spread out.

Mr. Rauschnot commented that issues between neighbors should be addressed on a civil level without government interference.

Councilmember Klein stated outdoor wood burners operate 24 hours a day, seven days a week.

**Motion by Madden, second by Klein, to adopt Ordinance No. 1220 declaring Outdoor Burners/Boilers to be nuisances, prohibiting construction of new outdoor burners/boilers, prohibiting the use and operation of existing outdoor burners/boilers, and declaring new and existing outdoor burners/boilers used or operated from and after October 1, 2011 to be nuisances.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**B. CITY OF INVER GROVE HEIGHTS;** Consider the following Ordinance amendments:

- i) The second reading of an Ordinance regulating certain materials located in setback areas
- ii) The second reading of an Ordinance regulating materials located in the five foot side and rear setback areas
- iii) The second reading of an Ordinance regulating driveway permits

Mr. Link stated the first reading of the proposed ordinances was heard on October 25, 2010 as presented, with no recommended changes. He explained in order to clarify the setback requirements and to better inform and educate the public, new ordinance language was discussed prohibiting bituminous pavement, concrete pavement, or paving blocks to be located within five feet of the side lot line or rear lot line. He stated an ordinance is also proposed that would establish current existing encroachments as legally established non-conformities. He explained the City has invested substantial money and time in its easements, and in order to protect them an ordinance requiring a permit in order to install or expand a driveway is also proposed. He noted a \$25 permit/processing fee is proposed.

Councilmember Klein questioned how long it would take someone to receive a permit for the installation or expansion of a driveway.

Mr. Link stated it would take a few days to process a permit. He explained that the City's planning and engineering staff would review. He noted it would be no different than the process to obtain a permit for a fence or sign.

Councilmember Klein opined that a person should be able to get their permit the same day they apply pay for it. He asked if language could be added to speed up the process.

Mayor Tourville stated that service delivery would always be a priority.

Mr. Link stated the reason for the permit is to be able to examine the possible impacts of the project.

Councilmember Piekarski Krech stated that the City needs to have the proper tools in place to address issues as they arise. She noted that most people are not going to install or expand a driveway on the spur of the moment.

Councilmember Madden stated the objective is to avoid the problems that have been occurring recently.

**Motion by Piekarski Krech, second by Madden, to approve the second reading of an Ordinance regulating certain materials located in setback areas, an ordinance regulating materials located in the five foot side and rear setback areas, and an ordinance regulating driveway permits**

**Ayes: 3**

**Nays: 2 (Grannis, Klein)      Motion carried.**

**C. CITY OF INVER GROVE HEIGHTS;** Consider an Ordinance Amendment to City Code Title 10-3-4 (Zoning Ordinance) relating to criteria for granting a Variance

Mr. Link explained that the City's power to grant variances is granted by statute, and the statute requires undue hardship. He stated if undue hardship means there has to be no reasonable use to the property without the variance, then that is the finding the City must make. He explained the proposed ordinance amendment would bring the City's ordinance into conformity with the State statute dealing with variances. He noted staff recommended that the Council adopt the ordinance in one reading because the ordinance merely reflects language in State statute.

Councilmember Piekarski Krech questioned if the ordinance would need to be amended again if the statute is changed in the near future.

Mr. Link responded that the change is meant to reflect the existing state law, so if it changes again the ordinance would have to be amended. He stated the main purpose is to keep the City Code consistent

with State statute.

Councilmember Grannis agreed the ordinance should be amended to comply with statute.

**Motion by Klein, second by Grannis, to adopt Ordinance No. 1221 amending City Code Title 10-3-4 (Zoning Ordinance) relating to criteria for granting a variance, and to adopt the ordinance in one Reading**

**Ayes: 5**

**Nays: 0      Motion carried.**

**ADMINISTRATION:**

**D. CITY OF INVER GROVE HEIGHTS; Consider New Roof for City Hall**

Ms. Teppen explained during the design phase of the project, the existing roof of City Hall was evaluated and determined to be in less than good shape, but in an effort to keep the overall cost of the project low, the replacement of the roof was “value engineered” out of the project. She stated the roof topic was revisited because several leaks in the roof were experienced last winter and because the bid for replacement came in extremely low. She reviewed the findings of a roof inspection recently conducted by an independent testing firm. She stated another option would be to let the replacement of the roof out as a separate contract after the construction is complete and the City may save money in a competitive bid situation. She noted that the factors involved with that option include putting the new construction at risk and an inability to easily identify liability if damage does occur. She explained staff recommended that the new roof be approved under the current contract with Shaw Lundquist in order to have one roof, one warranty, and one contractor. She stated a new roof would remove damaged and previously wet insulation, so energy savings would be achieved. She noted the risk of damaging the new interior would be greatly reduced.

Councilmember Piekarski Krech stated she is not confident in the current contractor given the number of issues that have occurred throughout the project. She stated she realizes a new roof is needed but would prefer to put the work out for bid.

Mayor Tourville agreed that they should get some cost estimates from other contractors. He asked if specifications could be prepared to go out for bid in two weeks.

Mr. Lynch stated part of the difficulty would be defining the liability between the current contractor and the new contractor.

Councilmember Grannis agreed that the item should be put out for bid and stated he thought the roof should have been included in the project from the beginning. He stated he would not support awarding the bid to the current contractor.

John Love, BKV Group, stated he understood the Council’s concerns with the current contractor. He noted the pricing was reviewed by his firm as well as the Owner’s Rep team. He noted the price was approximately \$33,000 less than what they previously saw. He added that protecting the work that has already been done also needs to be taken into account.

Mayor Tourville stated they need to move quickly and obtain the bids and the Council would make a decision when the bids come back for award.

**No action was taken on this item.**

**8. MAYOR & COUNCIL COMMENTS:**

**9. ADJOURN:** Motion by Piekarski Krech, second by Grannis, to adjourn. The meeting was adjourned by a unanimous vote at 9:00 p.m.