

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, MAY 9, 2011 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, May 9, 2011, 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 and Recreation Director Carlson, Community Development Director Link, Finance Director Lanoue and Deputy Clerk Rheume.

3. PRESENTATIONS:

A. Presentation of the 2010 Comprehensive Annual Financial Report

Ms. Lanoue stated Kern, DeWenter, Viere, Ltd. audited the City's 2010 Comprehensive Annual Financial Report. She reviewed the components of the report and some findings from the audit. She stated the city's net assets increased by \$10.5 million, and at year-end the general fund had a surplus of \$79,855. She noted both revenues and expenditures were under budget, while the property tax collection rate was excellent.

Steve Wischmann, Kern, DeWenter, Viere, Ltd., stated they issued an unqualified (clean) opinion on the City's financial statements, the highest level of assurance that can be issued. He explained a significant deficiency was noted with respect to a lack of segregation of accounting duties, comment they have is segregation of duties.

Motion by Klein, second by Madden, to accept the 2010 Comprehensive Annual Financial Report

Ayes: 5

Nays: 0 Motion carried.

4. CONSENT AGENDA:

Councilmember Piekarski Krech removed Item 4A, Minutes of April 25, 2011 Regular Council Meeting, Item 4D, Change Order No. 3 for City Project No. 2009-24, Rock Island Swing Bridge Project, and Item 4O, Resolution Accepting Letter of Agreement with Short-Elliot-Hendrickson, Inc. for Engineering, Authorizing a Feasibility Report and Authorizing Appraisal Services for the 2011 Improvement Program – City Project No. 2011-08, 66th Street from Concord Boulevard to the Swing Bridge at the Mississippi River, from the Consent Agenda.

Councilmember Grannis removed Item 4H, Resolution Approving the Acquisition of Property at 4301 63rd Street East, and Item 4L, Consider Contractor for McPhillips Property Tree Removal, from the Consent Agenda.

- B.** **Resolution No. 11-69** Approving Disbursements for Period Ending May 4, 2011
- C.** Pay Voucher No. 23 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation
- E.** Authorize Advertisement of RFP for Council Chambers Audio Visual Package for City Project No. 2008-18, Public Safety Addition/City Hall Renovation
- F.** Approve Agreement with Dascom Systems Group, LLC for Relocation of Cable Broadcasting Equipment
- G.** **Resolution No. 11-70** Approving Attorney Services Agreement with Law Firm of Dady & Gardner, P.A. and Authorizing Lawsuit Against A&W Restaurant, Inc. dba Yum! Brands, Inc.
- I.** Approve Veterans Memorial Community Center/The Grove Aquatic & Fitness Center Phase 1 Interior Signage
- J.** Approve Amendment to Code of Conduct for Veterans Memorial Community Center

- K. Consider Contractor for Grove Painting Projects
- M. **Resolution No. 11-72** Accepting Proposal from American Engineering Testing, Inc. for Construction Materials Testing Services for the 2011 Pavement Management Program – City Project No. 2011-09D, Urban Street Reconstruction, South Grove Area 6
- N. **Resolution No. 11-73** Accepting Proposal from Gorman Surveying, Inc. for Survey Staking Services for the 2011 Pavement Management Program – City Project No. 2011-09D, South Grove Urban Street Reconstruction Area 6
- P. **Resolution No. 11-75** for the Cooperative Purchase of Election Equipment
- Q. Approve Joint Powers Cost Share Agreement with Dakota County for Pictometry International Corporation General License Terms and Conditions
- R. Approve Massage Therapist License
- S. Schedule Public Hearing
- T. Personnel Actions

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

Ayes: 5

Nays: 0 Motion carried.

- A. Minutes – April 25, 2011 Regular Council Meeting

Councilmember Piekarski Krech stated she would abstain because she arrived late to the April 25th meeting.

Motion by Klein, second by Madden, to approve the Minutes of the April 25, 2011 Regular Council Meeting

Ayes: 4

Nays: 0

Abstain: 1 (Piekarski Krech) Motion carried.

- D. Change Order No. 3 for City Project No. 2009-24, Rock Island Swing Bridge Project

Councilmember Piekarski Krech asked if pervious materials would be used considering the proximity to the river.

Mr. Carlson stated a new layer of asphalt would be laid on the existing bituminous. He noted the plan did not include removal of any of the existing bituminous surface and in the long run there will be less bituminous in the area.

Councilmember Piekarski Krech asked if they will be doing anything with the drainage.

Mr. Carlson said yes as part of the 66th Street project.

Motion by Klein, second by Grannis, to approve Change Order No. 3 for City Project No. 2009-24, Rock Island Swing Bridge Project

Ayes: 5

Nays: 0 Motion carried.

- H. Resolution Approving the Acquisition of Property at 4301 63rd Street East

Councilmember Grannis explained he was not in favor of this item because of the change made with respect to the policy for the payment of remediation costs. He opined that the City should not pay any money towards remediation of soil contamination.

Motion by Madden, second by Klein, to adopt Resolution No. 11-71 Approving the Acquisition of Property at 4301 63rd Street East

Ayes: 4

Nays: 1 (Grannis) Motion carried.

L. Consider Contractor for McPhillips Property Tree Removal

Councilmember Grannis stated he pulled the item because it related to the property discussed in Item 4H.

Motion by Klein, second by Madden, to approve Contractor for McPhillips Property Tree Removal

Ayes: 4

Nays: 1 (Grannis) Motion carried.

O. Resolution Accepting Letter of Agreement with Short-Elliott-Hendrickson, Inc. for Engineering, Authorizing a Feasibility Report and Authorizing Appraisal Services for the 2011 Improvement Program – City Project No. 2011-08, 66th Street from Concord Boulevard to the Swing Bridge at the Mississippi River

Councilmember Piekarski Krech stated she pulled the item because she had the same question pertaining to the installation of more asphalt. She noted she was not happy with the dollar amount.

Mayor Tourville noted he would be abstaining because the agreement was with SEH, Inc.

Motion by Madden, second by Klein, to adopt Resolution No. 11-74 Accepting Letter of Agreement with Short-Elliott-Hendrickson, Inc. for Engineering, Authorizing a Feasibility Report and Authorizing Appraisal Services for the 2011 Improvement Program – City Project No. 2011-08, 66th Street from Concord Boulevard to the Swing Bridge at the Mississippi River

Ayes: 4

Nays: 0

Abstain: 1 (Tourville) Motion carried.

5. PUBLIC COMMENT:

Jim Huffman, 4237 Denton Way, stated there is a problem with asphalt caving in on 78th Street and Dickman Trail. He requested that the City streets department visit the site to address the problem.

Mr. Kaldunski indicated he would send staff out to the site to look at the issue.

6. PUBLIC HEARINGS:

A. CITY OF INVER GROVE HEIGHTS; Resolution Ordering the Project, Approving Plans and Specifications, and Authorizing Advertisement for Bids for 2011 Pavement Management Program, City Project No. 2010-09I, Blaine Avenue (North) Mill and Overlay

Mr. Kaldunski reviewed the project location and stated the proposed improvements would include a mill and overlay and partial reconstruction of Blaine Avenue, storm sewer casting adjustments, miscellaneous street repair, new pedestrian ramps, pavement markings, sidewalk repair and replacement, pedestrian ramps and a center median at the crosswalk for Gertens to allow for pedestrian safety. He noted the existing curb and gutter would be left in place with minor repairs being done. He explained the geotechnical consultant for the project recommended full-depth replacement of the street pavement as well as replacement of the damaged sidewalk along Blaine Avenue, near Upper 55th Street. He noted Gertens would be responsible for the cost of the sidewalk replacement, center median, and appurtenant work expenses and contingencies. He reviewed the proposed schedule, stating bids would be received in late May, construction starting around the 4th of July, with completion in September.

Mr. Kaldunski explained a waiver of assessment appeal agreement was negotiated with Gertens. He stated Gertens also agreed to address relocation and replacement of the irrigation system at their expense. He explained staff discussed assessments with adjacent property owners and there was a general consensus that the project was necessary and one landowner with a vacant lot requested a repayment period of at least five (5) years, preferable ten (10). He noted staff recommended an amortization period of ten (10) years in order to be consistent with the Gertens agreement and the City's PMP policy on street reconstruction.

Mr. Kaldunski stated the total estimated project cost is \$661,075 with a total amount proposed to be assessed of \$287,440 and a City cost of \$373,635. He noted Gertens has a total of 7 parcels that need to be assessed and the market appraisal analysis showed an assessment up to \$1/square foot could be sustained for commercial properties.

Mayor Tourville asked if there would be times the road would be closed off.

Mr. Kaldunski explained a request could be written into the specifications to work on one half of the road at a time to allow traffic to continue to move through the area.

Councilmember Piekarski Krech asked if 75% of the project costs would be assessed.

Mr. Kaldunski replied in the negative, stating 57% is planned to be assessed after credits are applied.

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

Ayes: 5

Nays: 0 Motion carried.

Motion by Klein, second by Madden, to adopt Resolution No. 11-76 Ordering the Project, Approving Plans and Specifications and Authorizing Advertisement for Bids for 2011 Pavement Management Program, City Project No. 2010-09I, Blaine Avenue (North) Mill and Overlay

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. CITY OF INVER GROVE HEIGHTS; Consider the Second Reading of an Ordinance Amendment to Allow Outdoor Storage in the P, Institutional Zoning District when Associated with Local Government Use

Mr. Link stated the City Council discussed the first reading of the ordinance on April 25, 2011 and requested that staff provide a map identifying the locations currently used for storage as well as areas that could be used as future storage sites. He explained the Public Works and Parks and Recreation Departments identified six (6) parcels that are currently used or have been used in the past for some type of material storage. He stated the Blaine Avenue Pit and the Gisch properties have a long history of being used for storage of materials, the Parks department has a small nursery on the Salem Hills Park site that is used for occasional temporary storage of wood chips and mulch, and the Kuchera property and Rich Valley Park are used occasionally. He noted all of the properties, except for the Kuchera and Gisch properties, are zoned P, Institutional. He recommended that those two properties be rezoned to be consistent with the proposed ordinance amendment.

Councilmember Piekarski Krech stated the sites that will be used should be memorialized as part of the ordinance. She explained her concern is how many other sites could be used in the future without having been approved for the temporary storage of materials.

Mayor Tourville agreed that a map identifying the sites should be included.

Mr. Kuntz suggested that a resolution be used in conjunction with the ordinance to identify the specific parcels. He explained adopting a resolution to memorialize the sites would provide an easier method to amend the list of sites, as needed, in the future.

Motion by Piekarski Krech, second by Grannis, to approve the Second Reading of an Ordinance Amendment to Allow Outdoor Storage in the P, Institutional Zoning District when Associated with Local Government Use

Ayes: 5

Nays: 0 Motion carried.

PUBLIC WORKS:**B. CITY OF INVER GROVE HEIGHTS;** Consider Resolution Approving a Waiver of Assessment Appeal Agreement with Gertens for Blaine Avenue (North) Full Depth Mill and Repave Project, City Project No. 2010-09I

Mr. Kaldunski stated the project will result in assessments to a number of parcels owned by Gertens. He explained Gertens will agree to waive their right under M.S. 429 to appeal assessments up to a maximum of \$221,324 as outlined in the feasibility study for the project. He stated the City would agree that the assessment cannot exceed the maximum amount identified and would waive the right to assess a higher amount in the event the bids come in higher than the estimate. He noted the waiver also included a provision whereby Gertens would waive any “green acres” deferral for their properties.

Councilmember Piekarski Krech asked what would happen if the bids come in higher than the estimate.

Mr. Kuntz explained the City Council would have the opportunity to reject the bids and not award the contract for the project if the bids exceed the maximum assessment amount. He clarified that the City has ultimate control over the contract.

Mr. Kaldunski noted staff is always conservative when estimating project costs and stated he is confident that the bids will be favorable.

Motion by Klein, second by Madden, to adopt Resolution No. 11-77 Approving a Waiver of Assessment Appeal Agreement with Gertens for Blaine Avenue (North) Full Depth Mill and Repave Project, City Project No. 2010-09I

Ayes: 5

Nays: 0 Motion carried.

C. CITY OF INVER GROVE HEIGHTS; Resolution Authorizing Preparation of a Feasibility Report for Pond T-23 Emergency Overflow

Mr. Kaldunski explained City staff and Gertens are working with Mn/DOT, the City of South St. Paul, and Barr Engineering on a plan to provide for a long-term drainage solution for an emergency overflow outlet to Pond T-23. He stated the pond is owned by Mn/DOT and is a storm water basin that receives water from the City’s storm sewer system and from numerous private properties, including Gertens. He noted the study would recommend a project design and a preliminary funding plan. He explained if a project was ordered it would benefit Mn/DOT, through the development of a reliable emergency overflow outlet for Pond T-23, as well as the City, Gertens, and other private properties in the watershed that would have flexibility in storm water design for future development by being able to direct runoff to Pond T-23. He noted after the scope of the study is finalized, staff would return to the City Council with a proposal for the completion of storm water modeling required for the study.

Councilmember Piekarski Krech asked if there has ever been any overflow from Pond T-23 onto 494.

Mr. Kaldunski stated in 2005 there was a significant event which caused water to overflow onto the 494 frontage road.

Mayor Tourville noted this was part of the agreement with Mn/DOT to receive approval of the permit required for the Gertens greenhouse expansion.

Motion by Klein, second by Grannis, to adopt Resolution No. 11-78 Authorizing Preparation of a Feasibility Report for Pond T-23 Emergency Overflow Outlet

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; Resolution Awarding Contract for 2011 Pavement Management Program, City Project No. 2011-09D, South Grove Street Reconstruction – Area 6

Mr. Kaldunski stated four bids were submitted and the low base bid was submitted by S.M. Hentges & Sons, Inc. in the amount of \$2,476,829.70. He noted errors were found in three of the four bids received,

and all errors were corrected per the contract language and reviewed by the City Attorney, City Engineer and the consulting engineer. He explained six alternate bids were included in the project, three of which were included in the contract documents as directed by the City Council.

Mr. Kaldunski stated alternate bids 1, 2, & 3 pertained to Craig Court and options for full reconstruction, partial reconstruction, or a mill and overlay. He noted the City's geotechnical consultant was hired to do additional testing on Craig Court and it was recommended that the City proceed with a full reconstruction as per alternate bid number 1 because the underlying sub-grade soils were found to be frost susceptible and the pavement conditions were deteriorated. He stated this alternate would allow major drainage issues in the existing curb to be addressed.

Mr. Kaldunski recommended that bid alternates 4, 5 and 6 also be awarded for the Skyview Park project fill site, the McPhillips project fill site, and the 66th Street project fill site. He noted the Parks and Recreation Department would be funding a portion of alternate bid 5 and the full cost of alternate bid 6 through the Park Acquisition Fund.

Mr. Kaldunski stated the total contract cost for the base bid plus bid alternates 1, 4, 5, & 6 was \$2,661,044.70. He explained the combined low bid was \$640,562.30 (19%) less than the Engineer's estimate of \$3,301,607.00.

Councilmember Klein asked if the City has previously worked with S.M. Hentges & Sons, Inc.

Mr. Kaldunski replied in the affirmative.

Councilmember Piekarski Krech asked if the company participated in any other phases of the South Grove Project or any other street reconstruction projects in the City.

Mr. Kaldunski stated he was not aware if the contractor was involved with any other street projects within the City. He noted he had previously worked with the contractor on several street projects in other cities and was please with their work.

Councilmember Piekarski Krech asked if the contract price would go down if alternate bids 4, 5 and 6 were not done and the contractor was asked to simply haul the fill away and dispose of it.

Mr. Kaldunski explained that the City received favorable pricing for alternates 4, 5 and 6 because the contractor was only asked to haul the fill a short distance. He clarified that the City would have paid more to have the contractor haul the fill away and dispose of it.

Motion by Klein, second by Grannis, to adopt Resolution No. 11-79 Awarding Contract for 2011 Pavement Management Program, City Project No. 2011-09D, South Grove Street Reconstruction – Area 6 to S.M. Hentges & Sons, Inc. for the Base Bid Plus Alternates 1, 4, 5, & 6 in the Amount of \$2,661,044.70

Ayes: 5

Nays: 0 Motion carried.

E. CITY OF INVER GROVE HEIGHTS; Resolution Approving Joint Powers Agreement with Dakota County Soil and Water Conservation District for Urban Cost Share Program for City Project No. 2011-09D, South Grove Street Reconstruction – Area 6

Mr. Kaldunski stated the City applied for the program with Dakota County and the funding will be provided by the Urban Cost Share Program being administered by the Anoka Conservation District via a Joint Powers Agreement with Dakota County Soil and Water Conservation District. He explained that the funds would be utilized to construct storm water management facilities on the latest South Grove Street Reconstruction project. He stated the funding is based on a grant provided by the State Legislature for water quality improvements. He noted the City is slated to receive a grant in the amount of \$50,000.

Motion by Piekarski Krech, second by Grannis, to adopt Resolution No. 11-80 Approving Joint Powers Agreement with Dakota County Soil and Water Conservation District for Urban Cost Share Program for City Project No. 2011-09D, South Grove Street Reconstruction – Area 6

Ayes: 5

Nays: 0 Motion carried.

F. CITY OF INVER GROVE HEIGHTS; Resolution Accepting Permanent Utility, Drainage, and Storm Water Ponding Easement for Lot 4, Block 1, Bakken Heights 2nd Addition (6825 Craig Court) for City Project No. 2011-09D, South Grove Street Reconstruction – Area 6

Mr. Kaldunski explained three property owners in the vicinity of 6825 Craig Court notified the City regarding drainage issues that occur on a regular basis in the backyard at this location. He noted the existing homes have been affected by flooding of the backyard. He stated City staff met with the landowners and developed a plan to install a pipe to connect to a rapid infiltration basin on an easement provided by the City of South St. Paul on the adjacent airport property. He added that there is also a sump pump discharge basket being installed to service 6805 Craig Court. He stated the owner of 6825 Craig Court has agreed to provide the City with an easement, at no cost to the City, over the westerly portion of this parcel.

Motion by Piekarski Krech, second by Madden, to Resolution No. 11-81 Accepting Permanent Utility, Drainage, and Storm Water Ponding Easement for Lot 4, Block 1, Bakken Heights 2nd Addition (6825 Craig Court) for City Project No. 2011-09D, South Grove Street Reconstruction – Area 6

Ayes: 5

Nays: 0 Motion carried.

PARKS AND RECREATION:

G. CITY OF INVER GROVE HEIGHTS; Consider the Second Reading of an Ordinance Amendment Updating Rules Pertaining to Parks and Recreation

Mr. Carlson stated the Council reviewed the first reading on April 25, 2011 and asked staff to provide clarification on several issues. He explained with respect to weapons the intent of the proposed language is to prohibit the possession of firearms within parks except as otherwise allowed under relevant state statutes or federal laws. He noted M.S. 624.714 specifically allows persons who have obtained a permit to carry a firearm to carry the same in a public place. He clarified that based on statutory language the City can ban non-permit holders from carrying firearms in City parks, but cannot ban conceal and carry permit holders from carrying a pistol in City parks or other public buildings in the City.

Mr. Carlson explained the ordinance was also modified to clarify language to ensure people cannot enter public waters through park property. He noted private property owners can choose to enter public waters at their own risk.

Mr. Carlson stated in the section related to animals staff added language to designate North Valley Disc Golf Course as a “high activity area”.

Motion by Klein, second by Piekarski Krech, to adopt the Second Reading of an Ordinance Amendment Updating Rules Pertaining to Parks and Recreation

Ayes: 5

Nays: 0 Motion carried.

ADMINISTRATION:

H. CITY OF INVER GROVE HEIGHTS; Discuss Change in Start Time for City Council Meetings

Mayor Tourville explained a suggestion was made during the last study session to adjust the start time of Council meetings.

The City Council agreed to change the start time of regular Council meetings to 7:00 p.m. Mayor Tourville suggested that staff look at when it would be best to institute the new start time and to come up with a plan to notify the public regarding the change.

The City Council directed staff to proceed with drafting the requisite ordinance amendment.

I. CITY OF INVER GROVE HEIGHTS; Consider Awarding Contract to Perform a Fire Station Location Analysis

Chief Thill explained in December of 2010 a Request for Proposal was advertised for professional services to conduct an analysis to determine location options for a new fire station. She stated eleven firms submitted proposals and ten of them arrived before the deadline. She explained that the proposals were forwarded to a panel comprised of Inver Grove Heights Fire personnel and were reviewed to determine which of the proposals most completely addressed each of the parameters of the RFP. She stated the panel chose to interview four firms. She explained that four representatives from the Fire Department, along with Assistant City Administrator Teppen, conducted the interviews. She stated that representatives from each firm were asked a series of pre-set questions and were scored based on a specific set of criteria. She explained the firm that received the highest score was DLR Group/KKE and staff recommended that the Council award the contract to that firm in the amount of \$22,000. She noted this was not the lowest bid received, and explained the bids that were received did not include all of the same components/services and therefore could not be compared solely on a cost basis.

Councilmember Grannis asked if the Council could see the proposals before they made a decision to award the contract.

Councilmember Piekarski Krech questioned how long the current bid would be valid.

Mr. Lynch indicated the bid from DLR Group/KKE would be valid for 30 days. He provided background information on the history of the project, noting that the Council had budgeted \$50,000 for the location analysis and pre-design work.

Councilmember Madden opined that qualified people reviewed the proposals and conducted the interviews and he expressed confidence in the work that was done to make the recommendation for an award of contract.

Mayor Tourville suggested tabling the item until the next regular meeting to allow time to review the proposals. He also requested that staff provide a list of each of the firms that submitted a proposal and the corresponding cost of the each proposal.

Chief Thill reiterated that the proposals were not readily comparable on a cost-basis because they didn't necessarily include the same services.

Councilmember Piekarski Krech asked that staff provide a brief explanation as to why the recommended firm was chosen.

Councilmember Madden agreed that it would be beneficial to see a brief summary with the prices and an explanation as to why the panel chose the proposal from DLR Group/KKE.

Councilmember Grannis indicated he would like to review all ten proposals.

Motion by Klein, second by Piekarski Krech, to table the awarding of a contract to perform a fire station location analysis to May 23, 2011

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Mayor Tourville stated they will be interviewing commission applicants on May 16th at 6:30 p.m.

Ms. Teppen noted 13 interviews were scheduled.

Motion by Piekarski Krech, second by Grannis, to schedule a special City Council Meeting on May 16, 2011 at 6:30 p.m. in the City Council Chambers for the purpose of interviewing Citizen Advisory Commission applicants

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville explained the Council would reconvene in executive session to discuss collective bargaining.

9. EXECUTIVE SESSION:

A. Discuss Collective Bargaining

10. ADJOURN: Motion by Grannis, second by Piekarski Krech, to adjourn. The meeting was adjourned by a unanimous vote at 9:45 p.m.