

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, JUNE 27, 2011 - 8150 BARBARA AVENUE**

**CALL TO ORDER/ROLL CALL** The City Council of Inver Grove Heights met in regular session on Monday, June 27, 2011, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:30 p.m. Present were Council members Madden and Piekarski Krech; City Administrator Lynch, Assistant City Administrator Teppen, City Attorney Kuntz, Public Works Director Thureen, Parks and Recreation Director Carlson, and Community Development Director Link.

**3. PRESENTATIONS:**

- A.** Recognize Retirement of Chief Charles Kleckner from the Inver Grove Heights Police Department after 30 Years of Service

Mr. Lynch recognized Police Chief Charles Kleckner. He explained Chief Kleckner is retiring after 30 years of service in the City. He stated Chuck was hired as a patrol officer in 1981, was promoted to sergeant in 1990, became a lieutenant in 1998, and was appointed Police Chief in 2004. As a lieutenant Chuck supervised three (3) high profile murder investigations during his tenure. In 2003 Chuck served as the Dakota County Drug Task Force Vice President and received the Community Peace Award in 1998 for his contributions towards ending domestic violence in Dakota County. Chuck was responsible for the development and implementation of the Police Bike Patrol program, which is still widely popular in the City today. Chuck also served as the Crime-Free Multi-Housing Coordinator, was the team leader on the Inver Grove Heights High Risk Entry Team, authored and obtained a cops grant to cover over-time costs to investigate motor vehicle thefts in conjunction with the City's car dealerships. Between 1985 and 1998 he was a fire-arms, baton use, high risk vehicle stops, and use of force instructor. He stated Chuck has received countless letters of recognition and thanks from members of the community and local businesses including the Robert B. Lewis House, each of the Inver Grove Heights Neighborhood Crime Watch groups, the Inver Grove Heights Fire Department, and all of the other Dakota County law enforcement agencies. Mr. Lynch thanked Chuck for his friendship and professional association over the last five (5) years and stated he has been a tremendous asset to the City and the Police Department throughout his career.

Chief Kleckner stated it is hard to believe 30 years have gone by so quickly and opined that it must be a testament to enjoying his job so much. He thanked the Mayor and City Council for their confidence and support to the Police Department. He recognized the officers and people he worked with on a daily basis and stated he was very proud to have worked with everyone in the department. He introduced his family and thanked them for their support and patience. He explained one of the reasons he enjoyed working in Inver Grove Heights is because it has always had a small town feel and he thoroughly enjoyed each of the positions he held in the department. He stated he has considered it a privilege to work in the City for the past 30 years.

Mayor Tourville presented a certificate to Chief Kleckner and thanked him for his service. He declared Thursday, June 30<sup>th</sup> as Chief Kleckner Day in the City of Inver Grove Heights. He stated Chuck did a tremendous job and stated his leadership and mentorship to the officers and employees of the department have left the City in good hands.

**4. CONSENT AGENDA:**

Citizen Allan Cederberg requested that Item 4A, Minutes of June 13, 2011 Regular Council Meeting, be removed from the Consent Agenda.

Councilmember Piekarski Krech removed Item 4L, Adopt Trail Gap Report, and Item 4O, from the Consent Agenda.

Councilmember Madden removed Item 4M, Approve VMCC/Grove Improvement Projects, from the Consent Agenda.

- B.** **Resolution No. 11-104** Approving Disbursements for Period Ending June 22, 2011

- C. Changer Order No. 1 for City Project No. 2011-09A, Cracksealing
- D. Agreement for 2011 Citizen-Assisted Lake Monitoring Program (CAMP)
- E. Land Alteration Permit No. C-086-11 for Steve Watrud for Part of Lot 1, Block 1 of the Gainey Addition
- F. Approve Contract for Geotechnical Services to Sample and Test Pond Sediments at Three Storm Water Facility Maintenance Locations
- G. **Resolution No. 11-105** Accepting Individual Project Order No. 17C with Kimley-Horn & Associates, Inc. for Additional Construction Phase Services for City Project No. 2011-09D, South Grove Street Reconstruction – Area 6
- H. **Resolution No. 11-106** Receiving Bids and Awarding Contract for the 2011 Pavement Management Program, City Project No. 2010-09I – Blaine Avenue (North Area) Mill and Overlay
- I. **Resolution No. 11-107** Receiving Bids and Awarding Contract for the 2011 Pavement Management Program, City Project No. 2011-09F – 65<sup>th</sup> Street East Improvements
- J. **Resolution No. 11-108** Approving Assessment Against Dakota County Tax Parcel No. 20-36500-21-060 with Respect to City’s Local Improvement Project to Abate Failed Septic System on Property Owned by Steven Patrick Barry and Irene E. Barry
- K. Approve Easement Agreement with Xcel Energy for Gas Rectifier Line
- N. Proclamation Designating July as Park and Recreation Month
- P. Approve Park Naming Policy
- Q. Agreement with IGHHA for Dasher Board and Wall Panel Advertising
- R. Authorize Legal Boundary Survey of Property Owned by Lawrence Kladek for Future Trail Purposes
- S. Approve Access Agreement for Property Located at 4325 66<sup>th</sup> St.
- T. Personnel Actions

**Motion by Madden, second by Piekarski Krech, to approve the Consent Agenda**

**Ayes: 3**

**Nays: 0      Motion carried.**

**A. Minutes – June 13, 2011 Regular Council Meeting**

Allan Cederberg, 1162 East 82<sup>nd</sup> Street, commented on item 6B related to the approval of the transfer of the liquor license for the King of Diamonds. He stated that the transfer of the license was approved and questioned if the Optional 2 AM license was also approved.

Mayor Tourville clarified that Mr. Cederberg was not disputing the accuracy of the minutes and that the minutes were correct.

Mr. Kuntz stated the Council approved the transfer of the entire On-Sale Intoxicating liquor license. He explained the ability to operate after 1:00 a.m. until 2:00 a.m. is regulated via a separate license issued by the State of Minnesota. He noted the City is not the issuing authority of that license and is merely asked by the State if the City allows the sale of alcohol until 2:00 a.m. He stated the clerk will follow up with more information to Mr. Cederberg.

**Motion by Madden, second by Piekarski Krech, to approve the Minutes of June 13, 2011 Regular Council Meeting**

**Ayes: 3**

**Nays: 0      Motion carried.**

**L. Adopt Trail Gap Report**

Councilmember Madden expressed concerns regarding where the money would come from in the future to maintain the trails. He stated when the City starts building and constructing things there should be a plan in place with respect to maintenance and operation costs for the future.

Councilmember Piekarski Krech pointed out that the report is a guideline and it does not necessarily mean that the trails are going to be built.

**Motion by Madden, second by Piekarski Krech, to adopt the Trail Gap Report**

**Ayes: 3**

**Nays: 0 Motion carried.**

**M. Approve VMCC/Grove Improvement Projects**

Councilmember Piekarski Krech questioned what is being ordered for furniture and what was wrong with the existing furniture.

Mr. Carlson stated the tables and chairs that overlook the pool would be replaced and other, more comfortable furniture such as couches would be added to create a more inviting atmosphere for guests of the facility. He explained that a suggestion from the audit that was done was to create a more comfortable atmosphere for guests and members of the facility.

Councilmember Piekarski Krech asked how often the couches would be replaced, because they will be used heavily and will experience a lot of wear and tear. She questioned what would be done with the current chairs.

Mayor Tourville suggested that they may be able to be sold as excess property.

Councilmember Piekarski Krech asked what kind of tables and chairs they are getting for this kind of money.

Mr. Carlson responded that commercial grade furniture would be purchased. He suggested that the item could be tabled if the Council would like more detailed information regarding the furniture specifications.

Mr. Lynch explained staff has been putting together a comprehensive capital plan. He stated it is all about the quality of life and there are policy decisions that need to be made by the Council in terms of what money is spent on.

Allan Cederberg, 1162 E. 82<sup>nd</sup> Street, questioned what the costs were to hire someone to do plan the remodeling projects and assist with the interior design.

Mr. Carlson stated the flooring cost is \$6,300 and the furniture cost is \$15,605. He stated he did not have the exact figure that was spent on design assistance for the improvement projects.

**Motion by Piekarski Krech, second by Madden, to approve VMCC/Grove Improvement Projects**

**Ayes: 3**

**Nays: 0 Motion carried.**

**O. Approve Park Maintenance Fund (Fund 444) Funding Transfer**

Councilmember Piekarski Krech stated she still disagrees with where the money is coming from and thinks the Council needs to have more discussion about how the City is going to fund parks and how they are using discretionary money.

Mayor Tourville directed staff to put the item on a work session agenda for further discussion.

**5. PUBLIC COMMENT:** None.

**6. PUBLIC HEARINGS:**

**A. CITY OF INVER GROVE HEIGHTS;** Consider Application of El Loro of Inver Grove Heights, Inc. dba El Loro for an On-Sale/Sunday Intoxicating Liquor License for Premises Located at 5681 Blaine Ave.

Ms. Teppen stated the item pertains to an application for an On-Sale/Sunday intoxicating liquor license for El Loro Mexican restaurant. She explained the Police Department completed the requisite background investigation and found no basis for denial of the request.

Councilmember Madden asked for clarification on the address.

Alex Gomez, applicant, clarified that the correct address was 5681 Blaine Ave.

Councilmember Madden questioned when the restaurant would open.

Mr. Gomez responded that he would like to be open by August 15<sup>th</sup>.

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

**Ayes: 3**

**Nays: 0      Motion carried.**

**Motion by Piekarski Krech, second by Madden, to approve the application of El Loro of Inver Grove Heights, Inc. dba El Loro for an On-Sale/Sunday Intoxicating Liquor License for premises located at 5681 Blaine Ave.**

**Ayes: 3**

**Nays: 0      Motion carried.**

**B. CITY OF INVER GROVE HEIGHTS;** Consider Proposed Spending Plan to Authorize Expenditures of Tax Increments from the City's TIF District No. 4-1 pursuant to Minnesota Statutes, Sections 469.176 Subd. 4m and a Proposed Business Subsidy Agreement pursuant to Sections 116J.993 to 116J.995

Mayor Tourville informed the audience that the Council would open the public hearing and take comments, but they would likely not vote and table the item to the first meeting in July because two council members were absent.

Mr. Lynch reviewed the location of Tax Increment Financing District 4-1, including the commercial portion of the Argenta Hills development. He stated the first item to be considered by the Council is a resolution that would amend the TIF District 4-1 spending plan. He noted the resolution identifies the purpose for the amendment as well as the goal/goals that would be achieved as a result of the amendment to the spending plan. He explained in 2010 the state legislature changed the tax increment financing laws to allow expenditures outside tax increment financing districts and at the time public and private improvements were required to begin by July 1, 2011 and be completed by December 31, 2011. He stated in the most recent legislative session the previously established deadlines were amended to allow public and private improvements to commence by July 1, 2012 with a completion deadline of December 31, 2012. He explained the second item to be considered by the Council is a resolution adopting a contract for private development between the City and IGH Investments, LLC. He noted the City's bond counsel and financial advisors would also be available to answer questions. He explained that both items being considered are allowed by law and the purpose for both would mainly be the creation of jobs and a means to jump start the development that stalled in 2008.

Councilmember Piekarski Krech expressed concerns that two council members were absent for consideration of such a critical issue. She opined that it is very important that every council member receive the same information so that all five (5) members can vote on the issue in an informed manner.

Councilmember Madden suggested that they could still take comments from the public.

Mayor Tourville noted that every council member received the same packet of information.

Mr. Lynch added that the council members not in attendance could watch the meeting online and would also be provided with the minutes of the meeting which would contain comments from the public.

Mayor Tourville stated the public hearing was noticed and scheduled for this meeting and if the item is tabled staff will ask bond counsel and the city's financial advisors to attend the meeting on July 11<sup>th</sup>.

Steve Apfelbacher, Ehlers & Associates, discussed how the City came to be in this situation and reviewed the items proposed for Council consideration. He reiterated that the purpose of the public hearing is to consider a spending plan which authorizes expenditures for the tax increment financing district and to develop and approve a proposed business subsidy agreement. He stated the developer approached the City to see if the City could help leverage construction of a major retailer in a project that was undertaken in 2008 and lies dormant in 2011. He explained the City has been looking for development to occur in the Northwest Area to help pay for the infrastructure (through connection fees) that was constructed by the City. He stated up to this point approximately \$650,000 in connection fees have been assessed and will be paid over the next ten (10) years and the City needs to make sure that those fees continue to be paid in addition to the construction fees from that particular project. He added that the proposed project would expand the tax base by approximately \$300,000 per year in property taxes and that figure would increase to approximately \$500,000 per year if the entire project was undertaken. He explained the major concern from the developers is that they want the project to proceed now while there is still a market. He noted if the developers were to wait and the market goes away there would be no assurances. He stated proceeding with the proposed project could drive development within the Northwest Area.

Mr. Apfelbacher reviewed the amendments that were adopted by the state legislature with respect to tax increment financing laws. He explained that TIF District 4-1 has cash balances in the district and they have looked at the use of those balances over the term of the district, through 2019. He stated based upon their review, there is approximately \$10 million dollars worth of debt that is currently outstanding and in addition to that the district is also helping to pay debt that is outstanding in TIF District 2-1. He explained that when factoring in and projecting current increment they felt comfortable that the City could continue to pay for all of the obligations that are outstanding, fund the debt that exists in TIF District 2-1, and still have cash balances to fund requests from the developer. He noted that the developer's books were reviewed and it was agreed that a payment of \$1,250,000 is necessary to support the project. He stated that would be broken down into two different pieces, the first payment of approximately \$500,000 would be due in the fall of 2011 for various public improvements and the remaining \$700,000 would be payable upon completion of the project. He added that based on the deadlines set forth by the state legislature all of the expenditures would need to be paid by the end of next year. He explained that it was recommended that a contract be developed that would minimize the risk to the City and ensure that if the development does not occur the City would not expend those funds. He stated it was proposed that the contract require the developer to start by September 1, 2011 and if they do not start the agreement would be terminated. He explained upon completion of the public improvements the City would escrow approximately \$550,000 and would not be payable until the project has been constructed as described in the agreement. He noted that the intent was to create a scenario in which the developer has to perform in order to have the funds expended. He stated the potential use of the increment in the district was also examined and considering the existing cash balances and the future cash balances that are available there would be additional funds within that district to be utilized for other projects specifically within TIF District 4-1. He added that surplus dollars available at the end of the term of the district would go back to the City and County, noting that from the school district's perspective there is little advantage in keeping those dollars as they are only able to receive a small portion of any surplus under state law. He stated there have been approximately 20 cities in the State that have utilized the same statute, including the cities of Lindstrom and Carver. He reiterated that the law is very specific in that it is not possible for the City to use additional TIF dollars for public improvements, and the use of the funds must be related to a specific, private development and be the responsibility of the private developer.

Steve Bubel, Kennedy and Graven, stated he acts as the City's bond counsel and has worked very closely with Ehlers and Associates, the City Attorney and the City Administrator to develop and negotiate the proposed contract for business subsidy with the developer. He explained the contract states exactly what the developer must build. The first is the Target facility, a 135,000 square foot store, the second involves additional commercial improvements of three (3) buildings totaling 15,000 square feet, and the third involves site improvements such as parking, landscaping, the completion of Amana Trail from T.H. 3 to Argenta Trail, and a pedestrian/bike trail to the north. He stated the contract outlines specific timeframes for the completion of various components of the project in conjunction with the assistance the City has been asked to provide. By September 1, 2011 there must be the beginning of some type of construction

either on the site or the identified site improvements and if that does not occur the contract is terminated. By December 1, 2011 the developer must provide the City proof that they have spent close to \$550,000 in some kind of construction of this project. He stated if the first two deadlines are met, the City will place \$549,000 in escrow with the title company and the funds will be held on the City's behalf until the remainder of the deadlines established in the contract are met. By February 15, 2012 the construction of the actual Target building must commence. He noted if that does not occur, the money being held in escrow would be returned to the City. He explained by December 1, 2012 the entire project must be completed, the Target store must open for business and the developer must prove that they have created 14 construction jobs. If all of the deadlines are satisfactorily met the escrow money would be released and the additional funds of approximately \$700,000 would be released. He noted the final provision, as required by statute, is that after the project has been completed and the funds have been provided the business must remain in operation for a period of at least five (5) years. If the business were to close at some point in the first five (5) years the City would be entitled to a pro-rated refund of the funds that were issued. He reiterated that none of the funds will be spent until the project has been completed to the terms and specifications set forth in the contract as negotiated by the City. He explained that the creation of at least 14 construction jobs by December 1, 2012 is a requirement of the spending law. The business subsidy law requires the City to establish goals for the subsidy and in this case the actual public purpose is to get the abandoned project completed. He noted that the contract also requires the developer to pay the City's out of pocket costs, such as attorney and consultant fees.

Councilmember Piekarski Krech clarified that as long as the business remains open for five years the developer gets to retain the money.

Mr. Bubel responded in the affirmative.

Mr. Lynch stated there are two letters that need to be received by the Council.

**Motion by Madden, second by Piekarski Krech, to receive letters from Progress Plus and Independent School District No. 199.**

**Ayes: 3**

**Nays: 0      Motion carried.**

Dian Piekarski, 7609 Babcock Trail, asked if the bond counsel or Ehlers and Associates know where the bulk of the City's TIF dollars in district 4-1 come from in this economy and is the City in jeopardy of not being able to generate the revenue that has typically been generated if something were to happen. She also asked if there are any other projects in the city that have stalled, defaulted, or remain incomplete and what liability does the City or its taxpayers have for those projects and how will that be handled. She questioned if the City's legal counsel recommended moving forward on just the word of the developer that Target is going to proceed with the store. She opined that Target has not signed off on anything.

Mayor Tourville stated the City is not doing business with Target, they are doing business with the developer, IGH Investments LLC. He reiterated that the developer would not receive any of the funds if Target is not built and does not open.

Ms. Piekarski expressed concerns that the proposed Target store has been downsized and opined that the partners that make up IGH Investments, LLC have protected themselves by creating the LLC and if the project was to fail the partnership may become insolvent and the City may not be able to recoup the funds and could end up with an empty situation. She opined that the companies that comprise IGH Investments LLC could fund the project internally using the funds that were received from the sale of the land to Target. She commented that the projected tax revenue from the completed project was estimated to be \$200,000-\$300,000 annually, and it appears that the City of Inver Grove Heights would really only collect \$75,000 annually. She stated if that figure is correct it would take the City 16 years to break even on \$1,250,000. She commented that Progress Plus reported a 27% vacancy rate in retail space at the last EDA meeting and opined that if the project was to move forward additional retail space would be created with unknown tenants and money would be taken out of a TIF district that could use the money to fund its own retail area. She opined that the purpose should be to reinvest TIF dollars in the district from which the money comes from. She referred to page 2B and the terminology that states "assistance authorized expressly

includes, but is not limited to assistance to IGH Investments LLC” and questioned what else it is open to. She referred to page 12, item number 4, which states that the subsidy is needed to pay for infrastructure serving the Northwest Area. She commented that it was her understanding from the City Administrator that the City was not having trouble making payments on the bonds for the extension of the sewer and water to the area and questioned why the City is trying to force soft development. She opined that if the development cannot stand on its own and needs subsidizing to get going what are the odds that it will be able to survive if the economy does not improve. She referred to page 15, Section 4.3 relating to the commencement of construction by September 1, 2011 and questioned what would prevent the developer from only constructing the smaller commercial improvements or site improvements and then walking away from the remainder of the development. She referred to Article 6, Section 6.3 which states that the City can utilize “any funds available to the City to fund the TIF loan and may also approve, in its discretion, an interfund loan to apply Tax Increments toward repayment of other funds used for those purposes” and asked why that clause was included. She referred to page 28, section 10.9, where it states that the agreement may be amended only written agreement approved by the City and the developer and questioned why in section 10.10 the authority for City approvals is granted to a City representative rather than bringing it to the City Council for approval. She opined that the agreement is too wide open and does not provide enough accountability. She stated her main concern is if someone else comes along with a great idea for district 4-1 the City won't have the money to contribute because it was expended on this project.

Mr. Bubel explained the spending plan was drafted to authorize this particular project, but noted that it is based on a law that the legislature gave the City based on the fact that it was going to be on a short-term basis in that there are specific deadlines that have to be met. The plan was written to give the City maximum flexibility in that it authorizes the use of the money for this project and/or another project that meets the same criteria of the statute. He clarified any new project that is proposed would come back to the City Council for approval.

Mayor Tourville noted that any city in the State of Minnesota could use the statute in the same manner.

Mr. Bubel stated the commencement of construction in Section 4.3 refers to specifically identified site improvement related to this project that must be constructed. He noted housing is not included in the defined site improvements. He clarified that if all the developer did was start construction and then walk away from the project, therefore not meeting the specific deadlines that are laid out in the contract, the developer would not get any assistance from the City because the contract would be void. He clarified that the Council is also provided with flexibility in that the developer does not have rights to tax increment financing just the \$1.25 million. He explained the intent of the phrase pertaining to amendment of the contract will be clarified to eliminate any confusion on how the contract could be amended. He noted it is typical to have the City Administrator sign off on small approvals rather than bring every little thing back to the City Council, but a contract amendment would be a significant change that would be brought back to the Council for approval.

Mayor Tourville suggested that any expenditure would need to come back to the City Council for approval.

Mr. Apfelbacher displayed a map to illustrate where the increment comes from. He explained that 4-1 has been very successful tax increment district from the City's perspective. He stated when this sort of thing is done, a development district is typically created and then another district is created inside the development district. He identified the development district of 4-1, stating it is bound by 494 to the north, Highway 52 to the west, to the City boundaries on the east side, and along the south it is generally bound by 55<sup>th</sup> street. He noted to the south there is a housing section that occurred to the south of 55<sup>th</sup> that is also inclusive of the district. He explained within the district it has generally been the commercial and housing areas that have been developed in the district, so increment has been collected from a mix of uses within the district. He stated the reason it was recommended to use increment from 4-1 and shift it to 2-1 is because the state changed the properties that are collected as tax increment revenues for commercial property. As a result the City received less tax increment revenue, making it necessary to shift revenue from district 4-1 to 2-1. He stated cash flow projections included paying all of the obligations of TIF District 2-1, the \$1.25 million proposed for this project, as well as the outstanding debt obligations in

4-1. He noted after reviewing all of the factors it was projected that over the life of the district approximately \$3 million dollars would be generated additionally for use on other projects in TIF District 4-1. The assumption is that the existing increment would continue to be paid over the life of the district. He stated the City has two outstanding debt obligations in TIF District 2-1, totaling approximately \$4 million dollars and outstanding debt obligations totaling approximately \$6 million dollars in 4-1.

Councilmember Piekarski Krech questioned if all of the projections were over the life of the district, through 2019.

Mr. Apfelbacher responded in the affirmative.

Councilmember Piekarski Krech questioned how much debt there is now and how much the City will incur from now until 2019 to make sure that the district is solvent.

Mr. Apfelbacher explained at the end of 2010 the City had just under \$ 3 million dollars in cash balance within the district and approximately \$10 million is owed. He noted where the fund balance will go would depend on how aggressively the City pays the debt that is existing within 2-1. He projected that the debt in 2-1 could be paid, subject to Council approval, by 2014 and the City would still have \$950,000 available for incentives in 4-1. He noted approximately \$1.5 million is collected in increment annually in district 4-1 and just under \$300,000 is collected annually in 2-1. He explained that his main concern overall for the project is the fact that the City is paying the debt for the Northwest Area and in order to pay that debt in the future the City needs to collect connection fees. He stated if the City does not start collecting connection fees in approximately 3-4 years a point will be reached at which the City may have to look at carrying that sewer debt for quite some time. He noted a critical mass, such as Target, is necessary for the development in order to provide an incentive for everything else that is planned to go around it. He explained the dilemma for the developer is that Target was started and building stopped, they can't sell the land because Target owns it, and they need Target to be built to get everything else going around it. He reiterated that no other businesses are going to move in without knowing what is going to happen on the Target property. He stated the hope is that the proposed incentive will help get the critical mass built to spur the rest of the development, thereby allowing the City to start collecting connection fees.

Councilmember Piekarski Krech asked what would happen if Target is there for five years but the economy doesn't pick up so there isn't enough development around it, and Target decides to leave the location.

Mr. Apfelbacher stated the developer would be better able to answer that question.

Councilmember Piekarski Krech stated School District 199 is concerned because money is being taken from their TIF district to be used in another TIF district and their school district would not benefit from the money generated in 4-1.

Mayor Tourville clarified that the school district would not lose money, but would not generate money either.

Councilmember Piekarski Krech opined that the school district supports the project, but has concerns regarding the way the project is being advanced.

Mayor Tourville clarified that the Manley housing development went broke and the City is in the midst of trying to solve the issue.

Mr. Lynch clarified that the City had no role in that development, and therefore had no risk. He explained the role the City has tried to play was to work with the bank to try to find a way to acquire the property so the public infrastructure could be completed. He noted there would be discussion regarding the Concord Hills development later in the meeting.

Jim White, Fine & Associates, identified himself as a developer in district 4-1. He opined that there is another use in that district and could also use funds to acquire eight (8) houses. He explained they have a two phase project underway and the second phase involves the property on which the homes are located. He stated they have put over \$2 million dollars into the project and could use the City's assistance to acquire the remaining properties. He noted they are in serious discussions with several developers for

retail anchors and they are getting close because the market is starting to turn around.

Mayor Tourville stated the City has tried to buy properties numerous times and the City would be happy to continue to work with them. He suggested that Mr. White set up a meeting for further discussion.

Jerry Lemke, 2417 E. 53<sup>rd</sup> St., stated he lives in the southeast quadrant. He stated he agreed that the entire Council should be present before a decision is made. He explained he would like to discuss the southeast quadrant and the transfer of money from TIF District 4-1 to the Argenta Hills and Target development. He opined that someone dropped the ball on the development. He stated his home should not be in the southeast quadrant because it is designated as commercial and he said the homes that are there are big obstacles to further development in the district.

Mayor Tourville reiterated that offers have been made to purchase the property. He stated the City is not actively trying to buy the houses because they do not own the property and Fine and Associates indicated that they would like to handle the property acquisitions.

Mr. Lemke stated the homeowners were told that there is not enough equity to pay for the houses and they need TIF money. He stated the noise is going to be awful and traffic will be bad along with pollution. He opined that if this happens and they develop around them the property values will drop drastically. He asked what the TIF transfer does for them.

Mayor Tourville reiterated that the discussion needs to be with the developer not the city.

Mr. Lemke opined that the City should have worked more aggressively to develop the southeast quadrant. He stated this issue needs to be looked at carefully.

Aida Schaeffer, 8450 Alta Ave. E., stated the residents have been watching limited progress. She stated she is concerned that the City is not making the best of its resources. She questioned why the City should be investing in a project that is not interested in moving forward at this time. She asked why the City should fund something for a commercial developer. She questioned if there is a better use for the TIF money. She asked if there is a requirement to use it and asked where the money goes if they don't use it.

Mayor Tourville stated his understanding is that if an agreement is reached, Target would agree to build. He reiterated that an agreement was put together that protects the City. He explained that if the money is not used it stays throughout the life of the district and would eventually be returned to the County and the City. He explained they are looking at tax base being generated because that could be more revenue than leaving the TIF money in the district.

Ellen Waters, Progress Plus, stated they provided a letter of support for the project. She explained the board thought this was a good deal that provided almost no risk to the City. She stated the retail market is very complex and Target is a leader in the industry and other retailers want to be near Target. She opined that one cannot underestimate the message of value and this project would send a positive message. She commented on the retail vacancy rate and stated this is an opportunity to capture more of those dollars. She indicated that studies have shown that what is vacant tends to be older and obsolete. She reiterated that this would put Inver Grove Heights on the map and would attract other businesses.

Mr. Cederberg opined that the Council should not do anything unless they see a contract from Target. He stated there is no workforce housing to support this development. He questioned if a credit report was supplied by the developer. He asked if the people in district 4-1 were informed of the hearing and the intent to use TIF money for this purpose. He also asked where the developer gets the money to pay for the buildings while he is building.

Mr. Lynch responded that they have a balanced budget that is not dependent on the TIF district.

Mr. Cederberg opined that the City needs to go to Target and find out what they are doing.

Greg Munson, IGH Investment LLC, clarified that the primary purpose of creating the LLC was to combine two different companies that came together to form a partnership. He stated the City is not moving forward on just the word of the developer, they have a contract in place and the City will not expend money until the development is actually built. He explained that they get the money to pay for the

improvements because they have the money set aside from the original contract. He indicated that they have had private discussions with Target and have come up with different ideas to provide Target with an incentive to move forward now. He reiterated that they do not expect money from the City unless they deliver results.

Marley Danner, 8314 Delaney Circle, asked if the new housing development was tax increment financing. Mayor Tourville responded in the negative.

Mr. Danner asked if more homes would be built. He stated he is not opposed to the development, he has an issue with tax increment financing housing.

Mayor Tourville noted it has to be workforce housing in order to qualify for tax increment financing.

Ms. Piekarski asked the Council to look at the questions about the Argenta Hills project. She asked for clarification regarding the estimated tax dollars the City will get.

Mr. Lynch explained all of the planned development is not taken into consideration. It only includes what will be generated from the Target development and the smaller tenants totaling 30,000 square feet.

Ms. Piekarski clarified that the TIF money would be used to fund this portion of the project, not all of the planned development.

Mr. Apfelbacher explained that the \$1.25 million dollar figure is tax increment revenue from all of the taxing jurisdictions.

Mayor Tourville stated they would keep the public hearing open and continue on July 11, 2011.

**Motion by Piekarski Krech, second by Madden, to continue public hearing to July 11, 2011 at 7:30 p.m.**

**Ayes: 3**

**Nays: 0      Motion carried.**

Mayor Tourville called for a five minute recess.

## **7. REGULAR AGENDA:**

### **COMMUNITY DEVELOPMENT:**

**A. IGH INVESTMENTS, LLC (ARGENTA HILLS 3<sup>rd</sup> ADDITION);** Consider Resolution relating to a Final Plat, Final PUD Development Plan and Development Contract with related documents for the plat of Argenta Hills 3<sup>rd</sup> Addition

Mr. Link stated the request is for a ten (10) lot single-family residential plat located on the west side of Robert Street, just north of 80<sup>th</sup> Street. He noted this is the second stage of a residential development that includes several additional stages. He explained most of the grading has been done for the property as part of the first phase of the development, and the conditions of the preliminary plat were all met except for a right turn lane on Robert Street (T.H. 3). He stated the developer has been working with Mn/DOT since last fall regarding the turn lane and noted there has been progress in the process. Planning staff and the Planning Commission recommended that the plat be approved with the condition that the plat not be filed, and building permits not be issued until Mn/DOT approves the design of the right turn lane. He noted certificates of occupancy would not be issued until construction of the right turn lane began. He stated Tom Kaldunski contacted Mn/DOT for an update on the permit and the developer proposed several alternatives for consideration in the event of a state government shutdown.

Mr. Kaldunski said they received a letter today from Mn/DOT giving three conditions that have to be met. One of the concerns Mn/DOT had was commercial traffic and the developer suggested looking at alternative ways to bring commercial traffic out.

Jacob Vick, IGH Investments, said it is their intent to build the turn lane. He discussed the government shutdown and explained they could find a temporary construction access and suggested adding a condition.

Mr. Link reiterated that the concept sounds reasonable.

Mr. Kuntz stated they condition number 3 could be amended to read until someone approves an alternate access off of Highway 3 to relieve the commercial vehicle traffic.

Councilmember Piekarski Krech questioned why they can't use Amana Trail.

Mr. Link indicated that there are still a few questions that need to be answered regarding jurisdiction and alignment.

Mr. Kuntz stated they would like to hear from the developer if they pull a building permit with a temporary access but don't have the turn lane done they are taking that risk.

Mr. Vick acknowledged that is a risk they are taking.

Mayor Tourville stated they need to figure out language.

Mr. Kuntz stated the condition would state, "or until such time the temporary access for commercial vehicles is constructed after being approved by the City's Engineering and Planning department and such jurisdictions that have authority over the feeder road".

Mr. Kaldunski reviewed the schedule and stated they are looking at late August or early September to start construction of the turn lane.

**Motion by Piekarski Krech, second by Madden, to adopt Resolution No. 11-109 relating to a Final Plat, Final PUD Development Plan and Development Contract with related documents for the plat of Argenta Hills 3<sup>rd</sup> Addition**

**Ayes: 3**

**Nays: 0      Motion carried.**

**B. STEPHEN WEBB;** Consider the following actions for property located at 10115 Cloman Path:

- i) A Conditional Use Permit to allow an amateur radio tower in excess of height allowed in a residential zoning district
- ii) A Variance to exceed structure height in the Critical Area Overlay District

Mr. Link explained the approval of a Conditional Use Permit requires four (4) votes. He stated with only three Council members present, no action could be taken on the item. He stated the Planning Commission recommended approval with some flexibility as to the final location of the tower. He noted prior to the Council meeting an issue was raised by a neighbor with respect to the proposed location of the tower. He stated staff would utilize the additional time to meet determine what alternatives there are for the exact location on the property.

Mayor Tourville stated the applicant needs to work with staff and the neighbor regarding where the tower should go.

Stephen Webb, 10115 Cloman Path, stated it is difficult to understand where the tower needs to go if someone has never seen the property. He explained there are a number of topographical issues that need to be considered. He noted the proposed location is the only flat area on the property that is high enough to accommodate the height requirements.

Bill Kostner, 10145 Cloman Path, stated if the tower was placed on the north side it would not cause any visual problems with his property. He opined that he does not want a sixty foot tower next to his property.

**Motion by Piekarski Krech, second by Madden, to table item to July 11, 2011**

**Ayes: 3**

**Nays: 0      Motion carried.**

**C. LUTHER NISSAN KIA;** Consider Resolution relating to a Conditional Use Permit Amendment to add a 20,000 Square Foot Building Addition and a 43,000 Square Foot Parking Lot Addition to the Existing Site for the Property Located at 1470 50<sup>th</sup> Street

Mayor Tourville stated the applicant requested that the item be tabled to the July 11<sup>th</sup> meeting.

**Motion by Madden, second by Piekarski Krech, to table item to July 11, 2011**

**Ayes: 3**

**Nays: 0      Motion carried.**

**D. KAY DICKISON;** Consider the following actions for property located at 7521 River Road:

- i) A Variance from the bluffline setback to construct a 160 square foot structure in the bluffline whereas 40 feet is required
- ii) A Variance from the front yard setback for an accessory structure to be located 20 feet from the front property line

Mr. Link explained this request was brought in front of the City Council last fall and the applicant requested the item be tabled until such time that the variance criteria was changed. He stated the request has since been modified as the applicant is no longer requesting a variance related to the number of accessory buildings. The current request is related to setback variances to construct an accessory building on the property abutting the river. He explained the request was reviewed against the new variance criteria and the two setback variances would be in accord with the general intent and purpose of the city code, consistent with the comprehensive plan, and there are practical difficulties in complying with official control. He noted the property is unique in that it is one tax parcel divided by road and railroad right-of-way, limiting the buildable area adjacent to the river. He stated the surrounding properties would not be negatively impacted and the location of the accessory structure would be located in an area that would have a minimal impact to the bluffline and right-of-way setback. He added that properties to the north and south of the parcel have homes located at about the same setback as the proposed accessory building. He noted the accessory building would not have any utilities. He stated both Planning staff and the Planning Commission recommended approval of the request.

**Motion by Madden, second by Piekarski Krech, to adopt Resolution No. 11-110 approving a Variance from the Bluffline Setback to Construct a 160 Square Foot Structure in the Bluffline whereas 40 feet is required and a Variance from the Front Yard Setback for an Accessory Structure to be located 20 Feet from the Front Property Line**

**Ayes: 3**

**Nays: 0      Motion carried.**

## **PUBLIC WORKS:**

**E. CITY OF INVER GROVE HEIGHTS;** Adopt Resolution Authorizing City to send Default Notification Letter on Concord Hills Development with a 60-Day Cure Timeframe

Mr. Kaldunski explained the City and the Danner Family Partnership entered into a Development Agreement for the development of Concord Hills in 2006 and the original agreement required completion of the developer-installed improvements by October 15, 2009. He stated in the fall of 2009 an amendment to the Development Agreement was entered into which extended the completion date to July 15, 2010. He noted that a number of conditions were included with the extension as recommended by the City Engineer. In July of 2010, the City received another request for an extension from the developer and the Council approved the request, thereby extending the completion date to July 15, 2011 with the final wear course to be placed by June 30, 2011. He explained after numerous letters to the developer prompting completion of the project, the City received another extension request for the period of two years. He stated the current letter of credit will expire on April 17, 2012 and the developer cited the slow housing market as reason for the housing inactivity in the development. He noted the developer has completed some of the improvements as required by the extension amendment, but many improvements (67 items) remain incomplete. He stated the project was reviewed by the City Engineer, Director of Public Works and the City Attorney and a resolution authorizing the issuance of a Default Notice as per the Development Agreement was prepared. He noted the Development Agreement provides the developer with 30 days to

comply with the requirements of the Agreement. He explained if the developer does not cover the defaults in the allotted timeframe, staff will report back to the City Council prior to any action being taken to draw against the letter of credit. He stated staff recommended moving forward with the default notification letter in an effort to get the project completed.

Marley Danner, 8314 Delaney Circle, stated he would like to see the punch list of items yet to be completed. He explained all of the plans and as-builts were submitted to the City for review. He opined that one lift of blacktop still needs to be completed and expressed concern with laying it prior to the development being finished because the truck traffic that will travel in and out of the development will damage the road. He referenced other projects in the City that are not finished and commented that it is a reflection of the current state of the housing market.

Mayor Tourville stated there are more items to be completed than just one lift of blacktop, identifying items such as erosion control and inoperable street lights. He suggested that staff and Mr. Danner meet within the next two weeks to review the punch list of outstanding items and come back to the Council with a status update.

Mr. Kaldunski reiterated that staff is trying to get the developer to complete the work in a timely fashion. He noted that even if the default notice was sent the developer would have a 30-day cure period.

Mayor Tourville asked Mr. Kaldunski to meet with Mr. Danner on-site to review the punch list and figure out a solution.

Councilmember Madden asked Mr. Danner if some of the more pressing items, such as erosion control, could be dealt with in a timely fashion to avoid further problems.

Mr. Danner responded in the affirmative.

Mayor Tourville questioned if the June 30<sup>th</sup> date should be extended.

Mr. Kuntz indicated that the June 30<sup>th</sup> date should not be extended as the item will be addressed on July 11<sup>th</sup>.

**Motion by Piekarski Krech, second by Madden, to table item to July 11, 2011**

**Ayes: 3**

**Nays: 0      Motion carried.**

**ADMINISTRATION:**

**F. CITY OF INVER GROVE HEIGHTS;** Change Order No. 24 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation

Ms. Teppen stated the change order was comprised of 14 items totaling \$26,530. She noted the revised contract total was \$12,038,871.10 and the project contingency balance was \$49,919.90.

**Motion by Madden, second by Piekarski Krech, to approve Change Order No. 24 in the amount of \$26,530 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation**

**Ayes: 3**

**Nays: 0      Motion carried.**

**G. CITY OF INVER GROVE HEIGHTS;** Consider Recommendation to Appoint Lt. Larry Stanger as Interim Police Chief

Mayor Tourville referred to the memo provided by Mr. Lynch which suggested an interim appointment for a six month period. He stated at the conclusion of six months the City Administrator would provide a recommendation for the position going forward.

Mr. Lynch noted the City will not backfill the vacant Lieutenant position until a determination is made regarding the Chief's position. He stated over the course of the six-month period he will seek feedback from the Council, officers in the department, and the public to formulate his recommendation for the position.

**Motion by Piekarski Krech, second by Madden, to appoint Lt. Larry Stanger as Interim Police Chief**

**Ayes: 3**

**Nays: 0      Motion carried.**

**8. MAYOR & COUNCIL COMMENTS:**

**9. ADJOURN:** Motion by Piekarski Krech, second by Madden, to adjourn. The meeting was adjourned by a unanimous vote at 11:15 p.m.