

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JULY 11, 2011 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, July 11, 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, Public Works Director Thureen, Parks and Recreation Director Carlson, and Community Development Director Link.

3. PRESENTATIONS: None.

4. CONSENT AGENDA:

Councilmember Klein removed Item 4A, Minutes of June 27, 2011 Regular Council Meeting, from the Consent Agenda.

- B. Resolution No. 11-111** Approving Disbursements for Period Ending July 6, 2011
- C.** Pay Voucher No. 25 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation Project
- D.** Change Order No. 1 for City Project No. 2011-09B, Sealcoating
- E.** Final Compensating Change Order No. 1, Final Pay Voucher No. 2, Engineer's Final Report, and **Resolution No. 11-112** Accepting Work for City Project No. 2010-09C, Blaine Avenue Mill and Overlay
- F.** Approve 2011/2012 Collective Bargaining Agreement between the City and Law Enforcement Labor Services (LELS), Local 84
- G.** Approve Easement Encroachment Agreement with Cahill Investments, LLC
- H. Resolution No. 11-113** Accepting Proposal from Barr Engineering Co. for Engineering Services to Review Gerten's Greenhouse Plan Submittal Compliance with Storm Water Model
- I.** Personnel Actions

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

Ayes: 5

Nays: 0 Motion carried.

A. Minutes – June 27, 2011 Regular Council Meeting

Allan Cederberg, 1162 East 82nd Street, stated in order for the King of Diamonds to operate until 2 a.m. they need to have a special license. He asked if the new owner obtained the proper license.

Mayor Tourville confirmed that Mr. Cederberg did not dispute the accuracy of the minutes.

Ms. Rheaume stated that the King of Diamonds does hold a current Optional 2 AM license. She explained that the State approves and issues that license and the information provided by Alcohol Enforcement indicated that because the licensee name remained Kladek, Inc., state personnel would note the transfer of ownership and the new owner would be responsible for renewing the optional license prior to its expiration in September.

Motion by Piekarski Krech, second by Madden, to approve the Minutes of June 27, 2011 Regular Council Meeting

Ayes: 3

Nays: 0

Abstain: 2 (Grannis, Klein) Motion carried.

5. PUBLIC COMMENT:

Dian Piekarski, 7609 Babcock Trail, addressed the Council regarding the public input process. She stated every two weeks council members receive and are expected to read informational packets that can exceed 300 pages. She explained when citizens take the time to review specific agenda items and make the effort to attend meetings to ask questions or express concerns it is expected that members of the Council be open minded to their input. She noted citizens may have different view points or ideas than those of council members. She stated members of the Council have the opportunity to get answers to their questions in advance of a meeting and citizens are generally not afforded the same opportunity. She opined that citizens have limited access to agenda materials and do not always have the same amount of time to review materials or gather information. She stated it is inappropriate for members of the council to berate citizens for their questions and concerns. She explained it is often obvious, through body language or facial expressions, when council members appear disinterested or are not listening. She stated citizens attend meetings because they care and want to understand and believe they can make a difference. She added that council members are elected to represent citizens and to hold people (staff or developers) accountable. She stated citizens should feel that they can express their opinions freely. She requested that council members make the effort to read all of the information that is provided to them, listen to the input of citizens, ask questions, and use that knowledge to make an informed decision.

6. PUBLIC HEARINGS:**A. 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

Mr. Lynch stated the public hearing for this item began at the June 27th meeting and comments were taken from the public and the Council opted to table a decision until all five council members were present. He noted that Steve Bubul and Steve Apfelbacher were again in attendance to answer questions. He reviewed that state law allows the City to use tax increments from one district to create jobs and stimulate economic development in another tax increment financing district. He clarified that the Argenta Hills development is not in bankruptcy, is not delinquent in the payment of taxes or assessments, and is not in foreclosure. He reiterated that the developer approached the City seeking assistance that is made available through a recently passed state law. He explained that TIF District 4-1 has a fund balance of approximately \$3 million and the City is considering a forgivable loan in the amount of \$1.25 million to Argenta Hills, IGH Investments LLC. He noted the City would still have a fund balance of approximately \$1.2 million available for use in that district at the end of 2011, including the remaining debt service. He explained that private improvements would need to be completed by certain dates specified in the development contract and proof of payment for those improvements would need to be provided to the City by IGH Investments LLC in an amount up to \$549,000. He noted the money would be placed into an escrow account until such time that proof of payment is provided by IGH Investments LLC. He stated the contract also included a provision that the Target store must be open by December 1, 2012. He added that the \$701,000 would also be placed into an escrow account until such time that proof is provided by IGH Investments LLC that construction of the Target store began by February 15, 2012 and opened for business by December 1, 2012. He reiterated that the money being held in the escrow account would be returned to the City if IGH Investments LLC fails to make the required private improvements or to provide proof of payment for those improvements, or if construction of the Target store does not commence by the date specified in the development contract, or if the Target store does not open by the date set forth in the development contract. He stated the terms of the development contract specify that the Target store must remain open for business for a period of five (5) years and if that does not occur IGH Investments LLC must repay the City a prorated share of the \$1.25 million dollars based on the months remaining in the original 60 month time period. He clarified that in TIF District 4-1 the \$1.25 million is generated by several taxing authorities including the County, the City, and Independent School District 199 and \$543,500 is the City share, including fiscal disparities. He explained that the fiscal disparities should be factored out of that amount, leaving \$198,000 as the City's share of the \$1.25 million. He stated a payback period (for the City's share) of approximately 2.75 years is calculated when the \$77,000 of new, annual taxes that would be generated in Argenta Hills are factored in.

Councilmember Piekarski Krech questioned who wrote the development contract.

Mr. Lynch responded that the development contract was drafted by Steve Bubul and reviewed by Mr. Kuntz and Mr. Apfelbacher.

Councilmember Piekarski Krech stated she is concerned with the contract and specifically addressed Page 12, Section 3 of the development contract which provides for the extension of the deadlines by one (1) year if so approved at a public hearing. She questioned if that provision would allow all of the deadlines to be extended by one (1) year, including the construction of the Target store.

Steve Bubul, Kennedy and Graven, clarified that language was included because it is part of the business subsidy agreement. He stated that the business subsidy statute states that the goals must be identified and if the goals are not met the deadlines may be extended by the period of one (1) year at the sole discretion of the City Council. He noted that even if the language was eliminated from the contract it would still be the law.

Councilmember Piekarski Krech stated she is extremely concerned about the protection of the City and the money involved if something was to happen. She referenced page 23, letter C pertaining to the ability of the developer to transfer the obligations of the agreement and the statement on page 12 that the developer does not have a parent corporation and is a newly formed company in and of itself. She stated she is leery that all of the guarantees and obligations can be met.

Mr. Bubul acknowledged that the developer is a limited liability company, likely created for this particular development. He explained that is one of the reasons that the issues of security were so heavily scrutinized throughout the negotiation of the development contract and business subsidy agreement. He stated that letters of credit, performance bonds, and guarantees are all mechanisms to protect the City, but each of them has their weaknesses. He explained the two strongest ways to protect the City are to not deliver the funds until the goal has been met (opening of the Target store) and to have the money escrowed with a title company so it cannot be released to the developer and must be released back to the City if the goal isn't met. He stated in a project of this nature the City is about as secure as it can possibly be with the current legal system.

Councilmember Piekarski Krech clarified that no money would be released until Target is open for five years.

Mr. Bubul explained that money would be deposited with a title company once the developer has provided proof that they have spent \$549,000 on private improvements and they started some type of construction. He noted that meant the money would be in a holding pattern and the developer would not have access to it unless and until Target opens. He reiterated that if all of the deadlines are not met the money would be released back to the City.

Councilmember Grannis questioned what would happen if Target opens, the money is released, and the store closes a month later. He asked if IGH Investments LLC would be the sole entity responsible for the repayment of the \$701,000 to the City.

Mr. Bubul responded in the affirmative and explained that the risky period is before construction of the store and before its opening. He explained there is a covenant, as required by the business subsidy statute, that Target must stay open and operating for five (5) years. He acknowledged that there is a graduated payback system during that five (5) year time period. He reiterated that it is true that if the Target store opened and closed a month later the City would only have recourse against IGH Investments LLC to recoup the money. He noted that the expectation is that once Target opens it will stay open beyond the five (5) year time period. He pointed out that they were not aware of any instance in which a Target store closed after opening, even beyond the five (5) years.

Councilmember Klein opined that would not be a feasible scenario because Target would not risk the backlash that would occur if the store closed a month after opening. He stated the store would have already been stocked, employees would have been hired, and a grand opening would have occurred. He opined that the media scrutiny would be tremendous.

Councilmember Grannis questioned if the City would be more protected if McGough Construction and Traditional Homes were also liable for the repayment of funds.

Mr. Bubul responded in the affirmative and stated if the City added an additional security or guarantee from another corporation it would be more secure.

Councilmember Piekarski Krech questioned if the business subsidy statute required the five (5) year time period or if other time frames could be established.

Mr. Bubul stated the five (5) year period is a minimum under the statute.

Councilmember Grannis asked if interest is paid on the money while it is held in escrow.

Mr. Bubul stated the escrow agent would invest the money and interest would go to whoever gets the escrow when it is released.

Councilmember Grannis asked if the contract could be written so the City would get the interest when the money is released.

Mr. Bubul responded in the affirmative.

Councilmember Grannis asked how long it would take before the County and School District would get paid back the money that would have gone back to them had it been returned at the end of the district rather than using it for this.

Mr. Lynch explained that neither entity would get paid until the end of the TIF district which does not expire for another eight (8) years. He indicated that figure could be calculated and provided to the Council.

Councilmember Grannis stated he would like to know that figure. He clarified that IGH Investments LLC gets to keep the \$1.25 million if Target closes after five (5) years and one (1) day.

Mr. Bubul responded in the affirmative.

Councilmember Grannis clarified that the calculations for this project were made assuming that there would be ancillary development once Target goes in.

Mr. Bubul stated he believes one of the major reasons why the City is considering this request is that having the Target development start and then stall has been an impediment to completing other development. He added that completing the Target store is likely to facilitate other commercial development.

Councilmember Grannis questioned how the payback figures would be affected if the ancillary development does not take place.

Mr. Lynch clarified that the payback figure included the Target facility and the requisite 15,000 square feet of retail.

Dian Piekarski, 7609 Babcock Trail, stated that it seems as though the City and citizens did what was needed to get Target to Inver Grove Heights by investing in the installation of infrastructure and modifying the payback mechanism for the developer's assessments. She opined that it is now up to the developer and Target to do the rest and the City should not have to invest in the project to make it work. She stated Target has a vested interest in the project because they own the property and pay the associated taxes. She opined that the City needs to wait for Target to complete their investment and not force it. She referred to page 11, item number two (2) of the development contract and questioned if the City or developer has any current development projects or inquiries that are contingent upon Target moving forward. She also asked if the City is anticipating any financial risk regarding the bond payments for the existing infrastructure if no development were to occur for the next five (5) years. She opined that question needed to be answered in order to determine if this is the best use of the money. She expressed concerns with the development contract granting authority to an "authorized City representative" to make certain changes to the contract. She stated that it doesn't seem that the changes are specifically defined and the authority is too open-ended. She asked what generates the bulk of the money in the TIF district and questioned if those funds could be jeopardized by the current economic climate. She questioned

where the money would go if Target does not open and the money is returned to the City.

Mr. Lynch explained the money would go back to the TIF 4-1 fund balance.

Ms. Piekarski opined that the fund balance for TIF District 4-1 has been depleted by almost everything except for development in the area for which it was created. She commented that the money that has been spent could have been put towards development in that area and creating additional tax base for the city, county, and school district. She opined that Walmart should be upset that the City is providing assistance to Target if they did not receive the same type of deal for their development. She commented that the City should be more proactive in trying to attract the businesses residents want in the City, not just taking whatever they can get.

Mayor Tourville stated that the Walmart & other retail development in that area did receive some assistance for the infrastructure from the state, city, and county. He explained that without the infrastructure the retail development would not have been able to come to Inver Grove Heights. He asked if the language in the contract could be adjusted to eliminate the references to an “authorized City representative” and designate the City Council as the approval authority.

Mr. Bubul indicated the language could be tightened up. He explained in many contracts there are minor approvals that need to be given and an authorized representative is normally designated to eliminate the need to bring every minor detail back to the City Council for approval. He noted that the language would be adjusted to address the issue.

Mayor Tourville stated the City is not broke in terms of being able to make the bond payments for the existing infrastructure. He opined that the agreement is in place to protect the City in the event that the worst case scenario occurs. He stated the City also needs to consider the good things that could happen if the development moves forward and Target opens. He opined that the City could end up with additional development and retail space, and a potential interchange at Highway 55 and Argenta Trail could be discussed with Mn/DOT if development starts to occur in the area.

Councilmember Grannis commented that a lot of the businesses located near the Walmart development are now closed and TIF money was used for that infrastructure as well.

Mr. Lynch clarified that the City is not broke in sewer and water and they are doing substantially well with the water. He explained the City paid for the infrastructure primarily in cash from the water fund and recently issued bonds for it. He stated a financial analysis was done to project five (5) years out so the City could make smaller payments up front to afford the debt and take into account the possibility that development would not occur for a five (5) year period. He explained the City does know that if the projected level of development has not come to fruition after that five (5) year period an adjustment may need to be made to the financing. He noted the City would have a number of options to consider at that point. He reiterated that a five (5) year cushion was built in to account for development not occurring as rapidly as was envisioned.

Aida Schaeffer, 8450 Alta Avenue East, stated she works as a financial strategist, primarily on the corporate side, doing economic development deals. She expressed concerns regarding the need for the \$1.25 million forgivable loan to the developer. She contended that the forgivable loan would be passed on from the developer to Target as an incentive. She stated she would like the City to provide a financial analysis that supports or demonstrates the need for assistance and asked for evidence that the proposed development would not commence without the assistance. She noted that Section 2B of the spending plan states that the City must document its finding that construction of this project would not have commenced before the required date without the assistance under the spending plan at the time the assistance is approved for each development. She opined that without the referenced documentation the City has not given this decision the financial due diligence it requires. She stated the Target Corporation made over \$65 billion dollars in revenue in 2010, \$3 billion in net income, and have 1755 stores. She calculated that each store makes approximately \$1.7 million dollars in net income annually. She opined that it seems as though the City is subsidizing 75% of Target's first year. She stated Target has a fiduciary responsibility to its shareholders to take the money if it is offered.

Mayor Tourville clarified that the money would go from the City to the developer for infrastructure.

Ms. Schaeffer stated she wants assurance that financial due diligence has been done by the City. She questioned if the Council received anything that would indicate that the proposed development would not move forward without the assistance.

Councilmember Grannis stated they have not seen anything to that effect. He noted that he requested financial information from the developer and he was told they would not provide it because it was private information. He opined that if the developer wants public money for the project they should make their financials public information.

Mr. Lynch explained that the City relied on its financial consultant, Ehlers & Associates, to meet with IGH Investments LLC and review their financial information. He noted the City Council was aware that the developer is a privately held company and they would not reveal their information directly to the City, but would to the City's financial consultant. He stated Mr. Apfelbacher and an assistant met with the developer, reviewed their financial information, and subsequently informed the City Council that the developer would need \$1.25 million to make the project work.

Councilmember Grannis stated he could not vote to approve the assistance when he has not reviewed the developer's financial statements.

Ms. Schaeffer stated the City is basing its decision on the financial analysis completed by Ehlers and Associates and questioned who paid the financial consultant.

Mr. Lynch stated the financial consultant works for the City, not the developer. He clarified that the City has an agreement in place whereby the developer reimburses the City for the fees it incurs for items such as consultant and attorney fees for work related to this project.

Mayor Tourville noted the Council was told from the beginning that the developer was a privately held company and they would not make their financial information available to the public. He stated he trusts the analysis done by Ehlers and Associates.

Ms. Schaeffer stated she is not convinced there is a financial need for the assistance. She reiterated that the City is most at risk during the first five (5) years after Target opens and the money has been released from escrow. She stated if Target closed the City would have little to no recourse against the LLC because there is no guarantee or security agreement in place to protect the City from default. She opined that Target has already invested \$7 million in the project by purchasing the land and when the economy is right they will build and open a store. She suggested using an interest rate subsidy to assist the developer. She also suggested that the payment terms in the agreement be clarified.

Allan Cederberg, 1162 East 82nd Street, asked when they City got \$3 million and if it was available in cash.

Mr. Lynch stated it is a cash fund balance and it is a part of the City's investment portfolio. He explained the money was accrued over time.

Mr. Cederberg questioned why the \$3 million cash fund balance was not shown on the recently published summary of the City's financial report.

Mayor Tourville stated it is not included in the summary because it is part of the City's investment portfolio.

Mr. Cederberg asked if the City designated the money to be used in TIF District 4-1.

Councilmember Piekarski Krech asked Mr. Cederberg if he understood what a tax increment financing district was.

Mr. Cederberg responded in the negative.

Councilmember Piekarski Krech explained that it is an area where previously there was nothing there and the City created the tax increment financing district to help pay for improvements such as roads or moving gas lines. As development came in more taxes were generated, and the extra taxes are deposited into the tax increment finance district. She stated the \$3 million dollars was generated by the development (commercial, residential) that was built within the district.

Mr. Cederberg confirmed that the State has no control over the money in the TIF District.

Councilmember Piekarski Krech reiterated that the money is generated through property taxes.

Mr. Cederberg asked if the spending plan included a requirement for the creation of jobs.

Mayor Tourville clarified that the 2010 bill requires that a jobs quotient be included in the spending plan.

Mr. Cederberg commented on one of the conditions being that the developer needs to provide proof of 14 construction jobs and asked why they do not have to provide jobs for the entire amount of the loan.

Councilmember Klein stated incidental jobs would also be created.

Mr. Cederberg questioned why money from TIF 4-1 was being used to make bond payments for the community center.

Mr. Lynch explained in 2000 the State of Minnesota changed the classification rates on properties which changed the financial condition of that TIF district. He noted the State allowed the City to pool money from other districts to pay those districts that had deficits. He clarified that the TIF district does not have a deficit because of the VMCC, there is a deficit because the State changed the classification rates. He stated the City Council authorized the payment of debt service at that time.

Mr. Cederberg opined that the City Council is responsible for the decision and what happens as a result.

Ms. Piekarski opined that the money is an incentive to get Target to build here sooner rather than later. She referenced an email from Mr. Lynch which stated that Target would owe the developer approximately \$700,000 for their completed improvements and explained that the City's agreement would be to place the \$700,000 into an escrow account, only payable to the developer if Target opens for business. She opined that Target will benefit from the money.

Councilmember Klein stated that the money is being used to install infrastructure, so the City is getting something for the money.

Ms. Piekarski stated the developer agreed to install the infrastructure to begin with.

Councilmember Klein commented on the requirements that have to be met to build in the Northwest Area and stated that the City may have to help to spur development.

Councilmember Grannis asked Mr. Apfelbacher if he was the individual who determined the amount of the \$1.25 million forgivable loan to IGH Investments LLC.

Steve Apfelbacher, Ehlers and Associates, stated he was asked to look at the books of the developer to determine if the request for the \$1.25 million could be justified.

Councilmember Grannis questioned what books or documents were looked at to determine that number.

Mr. Apfelbacher explained they reviewed the figures provided by the developer. He stated they looked at the dollars the developer had invested in the project and their projections of the revenues they would receive with the development of the project.

Councilmember Grannis asked if Mr. Apfelbacher's review demonstrated that the developer was short \$1.25 million.

Mr. Apfelbacher stated it was determined that the developer was short more than \$1.25 million. He noted when the individual numbers were reviewed there were several areas in which their numbers may have been a little different. He explained that the developer purchased the land at the peak of the market and land values have significantly decreased since that time. He stated there were also holding costs involved because the developer had anticipated moving forward with the project in 2008 and the development has been delayed and may not begin until 2012. He added the housing that was built was on a much smaller scale than what was projected for the development and the commercial development was completely stalled.

Councilmember Grannis clarified that the developer sold the land to Target in 2008 for \$7,300,531.50.

Mr. Apfelbacher confirmed the sale of the property to Target and noted there were also outstanding hookup charges, approximately \$660,000, that the City specially assessed and are the responsibility of the developer.

Councilmember Grannis stated the hookup charges existed when the development was originally approved and the charges were always the responsibility of the developer.

Mr. Apfelbacher explained there was a change made to the original contract to allow the developer to pay the assessment over a ten (10) year period.

Councilmember Grannis questioned what documents were reviewed to determine that the developer was short \$1.25 million and where the numbers came from in terms of income and expenses.

Mr. Apfelbacher reiterated that the numbers were prepared by the developer, IGH Investments LLC.

Councilmember Grannis questioned if any of individual partners' tax returns were reviewed to see how much money they made and how much they could pay towards the project.

Mr. Apfelbacher responded in the negative.

Councilmember Grannis opined that the partners could be multi-millionaires as far as the City is aware.

Mr. Apfelbacher estimated that they would likely have to be in order to put up the equity that they have for the project.

Councilmember Grannis referenced a document entitled "Tax Increment Balances Can be Used for Construction Projects to Create Jobs", specifically the question related to how a City can provide assistance to a project. He asked Mr. Apfelbacher to explain the option regarding "equity or similar investments in corporation, partnership, or limited liability company".

Mr. Apfelbacher explained that an EDA can be involved as a joint partner with particular private corporations and this would allow funding of an equity share in a private development under state statute.

Mr. Bubul further explained that the intent of the statute was to stimulate job creation. He stated the law basically states that anything a City can do to stimulate the creation of jobs can be done, including becoming an equity partner in a private development.

Councilmember Grannis clarified that the City could ask to become a business partner in the project and share in the profits in exchange for the \$1.25 million.

Mr. Bubul responded in the affirmative.

Mr. Apfelbacher explained that it is Ehlers and Associates policy to only work for cities. He stated the arrangement that has been agreed upon is that if the firm gets involved in EDA issues they will not be paid by the developer. He reiterated that in this particular case the developer has a contract with the City through their original development agreement to reimburse the City for its administrative costs, which encompass the fees charged by his firm.

Councilmember Grannis opined that Mr. Apfelbacher and Mr. Bubul do an excellent job in their respective roles as consultants for the City.

Councilmember Grannis asked Mr. Munson if he recalled standing in front of the Council in 2008 and saying they could trust him and approve the extension of sewer and water, despite not having a signed contract with Target, and telling the Council that Target was coming and would open in July of 2009.

Mr. Munson stated that sounds like what the tone of his message would have been at that time. He explained that his company invested approximately \$30 million dollars into the project based on the expectation that Target would open in July of 2009. He clarified that they did have a signed agreement with Target, but it did not have specific date for the start of construction.

Councilmember Grannis asked what McGough Construction and IGH Investments LLC were doing to jump start the Argenta Hills development besides asking the City to provide financing for the project.

Mr. Munson stated first and foremost they are trying to get the anchor tenant going. He acknowledged that they are seeking assistance from the City because they have been unsuccessful in their attempts to make that happen. He explained this proposal has received some interest from the anchor tenant. He stated while the credit markets have been frozen and access to capital has been unavailable, they have been able to find a way to generate sufficient cash to start modest doses of the housing to try to maintain interest in the project. He noted their brokers have been very proactive in attempting to find a second anchor tenant and smaller commercial users.

Councilmember Grannis stated the housing development was always a part of the project.

Mr. Munson explained that the housing development would have been completely stalled had they not formed the LLC. He stated they have not walked away from the project and will not walk away from the project in the future. He explained they found a way to move the housing development forward during a time of great duress.

Councilmember Klein asked if any of the homes were sold.

Mr. Munson responded in the affirmative, noting they were not sold at prices that were originally anticipated. He estimated that they were sold at a 25-30% discount from what was projected.

Councilmember Grannis asked what has been done specifically with Target to entice them to start construction.

Mr. Munson stated the only thing they can do is continue to communicate. He reiterated that he did believe in 2008 that construction would start in 2009. He explained that this time around the agreement has specific dates set forth with respect to the start of construction and an opening date for the Target store. He stated he would not want the City to spend money unless they get the result that everyone is seeking.

Councilmember Grannis questioned why they did not need the \$1.25 million in 2008.

Mr. Munson responded that the cost structure has not changed since 2008, but everything that will be produced as a commodity of the investment will return significantly less.

Councilmember Grannis asked how Target would benefit from the City providing IGH Investments LLC with \$1.25 million.

Mr. Munson stated they are providing Target with subsidy. He explained that Target has an outstanding obligation of \$700,000 to them for the remaining improvements and infrastructure that need to be completed on the site. He stated they are forgiving the obligation for Target to pay them upon completion of the improvements.

Councilmember Grannis asked if IGH Investments LLC was still unwilling to show the City Council their financial information to justify their request.

Mr. Munson stated they are not willing to make their personal financial statements and tax returns public data.

Councilmember Grannis confirmed that they still wanted public money for their private development.

Mr. Munson stated they were willing to share information regarding the project finances and they have done so.

Councilmember Piekarski Krech stated one of her major concerns is artificially creating a market. She stated that Target has said that they do not feel this is the right time to build in the City and questioned how the City can be assured that Target will put forth their best effort to make this a viable, long term store. She asked how creating an artificial market will induce other development to come.

Mr. Munson stated that he cannot speak directly for Target, but he believes they are very good at what they do and his company is in a position of trusting that Target knows what they are doing and that they would not agree to this proposal if they did not think it would work and be viable. He explained he knows

that Target is a huge attraction for shadow retailers and their presence will bring even more interest in the project. He stated he has letters of intent from several shadow retailers that are waiting until Target is finalized to build.

Councilmember Piekarski Krech clarified that Mr. Munson believes he will get other retailers if Target is a part of the project.

Mr. Munson stated that his company believes in the project and the fact that Target is the catalyst that will make the project successful and attract other shadow retailers. He reiterated that the City will not release the money unless the Target store and additional 15,000 square feet of retail space are completed.

Ms. Schaeffer opined that the \$549,000 would be used by the developer for protection of the profit of the LLC.

Mayor Tourville asked if the contract requires the developer to submit proof that the \$549,000 was spent on the required public improvements.

Mr. Bubul and Mr. Apfelbacher responded in the affirmative.

Mayor Tourville clarified that the \$549,000 was not to cover the developer's margin.

Mr. Munson explained that the agreement is set up so that the entire amount, \$1.25 million, would be a reimbursement to them for money they will spend to install infrastructure. He stated they have no profit to protect on the project.

Ms. Schaeffer stated if the developer is unable to obtain credit through commercial means the City should not provide the money as a forgivable loan. She suggested that the City require the money to be paid back, with interest. She opined that Target has enough money to finance the project on their own and approving this request would set a precedent for future requests for the same type of assistance.

Mayor Tourville stated the 2010 TIF bill was a one-time piece of legislation that likely will not be able to be repeated because the projects would essentially need to be ready to be built by the deadlines imposed in the bill.

Ms. Schaeffer questioned if the tax rate would be stabilized if the money was not spent, remained in the TIF district, and was returned the City, County, and school district at the end of the TIF district's life.

Councilmember Grannis responded that it would depend on how much money is spent and how it's used.

Mayor Tourville opined that by 2019 he thinks there will be some ideas on how to use the money that is left and the money that will be generated in TIF District 4-1.

Ms. Schaeffer stated residents want their taxes reduced. She opined that the City does not need to put in as much money to make it happen.

Mayor Tourville stated residents also want the City to create a larger tax base and the proposed development could do that.

Ms. Schaeffer asked if the financial need has been documented.

Mr. Kuntz stated based on the discussions between Mr. Apfelbacher and Mr. Bubel, who drafted the spending plan, due diligence has been done.

Mr. Bubul clarified that the plan expressly states that the City will provide \$1.25 million for this particular project and it also states because the statute was extended to July 1, 2012 the City is authorized to do additional projects, but each additional project would have to come back before the City Council and the same findings would have to be made. He explained the analysis for this particular project was completed and the City made its findings in the resolutions and in the plan. He reiterated that the findings are based on the numbers that were reviewed by the City's financial advisor.

Ms. Schaeffer questioned if the City had to document the findings at the time of approval for this particular development.

Mr. Bubul responded that the City has done that already because the documentation is in the contracts and the requirements set forth. He reiterated that the major finding under the spending plan is that the project will create construction jobs that would not have otherwise happened at this particular time. He explained the numbers that were reviewed by the financial consultant demonstrated that without the assistance this construction would not have begun at this point in time.

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

Mr. Cederberg stated the Q&A sheet included in the packet indicated that TIF money cannot be used to pay off debt on existing bonds. He questioned how the bonds for the community center could be paid off with TIF money.

Mr. Apfelbacher explained that money cannot be taken out of existing TIF District 4-1 and use it to pay bonds in another district for another type of use that has already been approved. He stated the money can be used to pay off bonds that are the direct obligation of the district. He noted the community center bonds are the direct obligation of the district through the nature of pooling.

Mr. Cederberg questioned when the additional 15,000 square feet of retail would be built, if there were any conditions that needed to be met for that portion of the project, and who was paying for them.

Mr. Lynch stated the developer would be paying for it.

Mr. Cederberg questioned how the developer would raise the \$1.25 million that is needed up front for the public improvements. He asked why the developer needed to be reimbursed if they had enough money to cover the costs of the infrastructure to begin with.

Councilmember Grannis opined that the developer wanted to increase their profits on the project.

Mr. Munson explained they will borrow funds from other purposes and quickly try to recover that money and redistribute the funds for their intended purpose.

Mayor Tourville opined that this is a way to get the development to happen sooner rather than later and to expand the City's tax base.

Councilmember Madden opined that the proposal would expedite development.

Mr. Cederberg stated there was an error on page 2; letter F of the spending plan.

Councilmember Piekarski Krech stated the comma could be put in the right place.

Mayor Tourville noted the correction would be made.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Klein asked if the agreement could be amended to reflect that City would receive the interest that accrues on the money while it is held in the escrow account.

Mr. Lynch stated the amendment could be made if it was acceptable to the developer.

Mr. Munson stated he did not have a problem with making that change. He questioned how the interest accrued while in escrow would be applied to the 1.7% interest that is due on any pro-rata payments that are made by the developer to the City in the event of failure to meet a condition during the five (5) year time period.

Mr. Bubul stated that the document could be approved with the understanding that the interest on the escrow when it is broken does not go to the developer. He explained that may mean that an adjustment would need to be made within that five (5) year period and asked if the Council would allow him to work out the technical language, subject to his approval and approval by Mr. Kuntz.

Mayor Tourville stated he would not support the City becoming an equity partner in the project.

Councilmember Grannis asked if there is a way to protect the City if it became an equity partner in the project through the EDA so the City could share in the profits but eliminate any exposure to liability for

expenses.

Mayor Tourville asked the developer if they would agree to allow the City to be a partner in the project with no liability.

Mr. Munson stated that option had never been discussed, but his initial reaction would be no.

Mr. Kuntz stated that in order to be a partner the developer would also have to agree to what is being proposed. He explained his understanding of the inquiry by Mr. Apfelbacher into the developer's books is that the cash call to the partners to finance the improvements, subject to reimbursement if and only if the improvements are in and Target opens, indicates that becoming a full-fledged partner would come with risks that can only be minimized if the developer agreed to fully indemnify the City from all losses.

Councilmember Grannis suggested that could be a condition of approval of the \$1.25 million.

Mr. Kuntz stated he has not seen or heard anything which indicates that the developer would be willing to do that.

Mayor Tourville clarified that they do not need the EDA to do any of that, the City can do it because of the special legislation previously discussed.

Mr. Lynch noted that the EDA does not currently have an identified funding source.

Councilmember Grannis questioned if TIF money could be used as the funding source.

Mr. Lynch responded in the affirmative.

Mayor Tourville asked Mr. Munson to state what his position would be with respect to the City becoming an equity partner in the project and being fully indemnified from all losses.

Mr. Munson stated they would not be willing to pursue that option.

Mayor Tourville questioned how the language referring to "City representative" could be amended so it is clear who is authorized to make certain decisions.

Mr. Bubul suggested that unless referenced specifically in the contract, all general references to City representative authority be eliminated from the contract and replaced with City Council.

Mr. Kuntz stated the terminology appears on pages 9, 16, and 23. He explained it first appears in an instance of if the project is transferred but this developer is still responsible, the City representative could approve the transfer papers because the same developer is still responsible for its obligations. The other is an instance of authorizing the City representative to sign the completion certificates. He stated that except for the specific references, changing the general authority language to City Council would seem to be the most appropriate change.

Mr. Munson clarified that the change would not mean he would need to come to the Council for approval of every lease entered into for the project.

Mr. Bubul indicated he would not have to come back to the Council for approval of leases.

Mayor Tourville questioned if the job covenant outlined in Section 3.5 of the contract was specific enough.

Mr. Bubul stated the description of a construction job is a bit difficult because of its temporary nature. He explained that contract defines a construction job as "any job that lasts for one 35 hour week during the construction period". He noted part time jobs could be aggregated to reach the total for one job. He clarified that the developer has to provide the information and proof that the jobs were created even if they did not essentially create the jobs.

Councilmember Klein stated the reason he is supporting the proposal is because if nothing gets done, no money is released to the developer and if construction does occur the City gets the development going sooner rather than later. He noted this is the only project that the money could realistically be used for at this time because it is ready to begin construction.

Motion by Klein, second by Madden, to adopt Resolution No. 11-114 approving a Spending Plan for Tax Increment District 4-1 and Resolution No. 11-115 approving a Contract for Private Development between the City of Inver Grove Heights and IGH Investment, LLC

Councilmember Grannis stated he read a newspaper article in which Target identified the Inver Grove Heights location to be a “soft” store site, meaning they did not expect it to be very profitable and they were not going to build there. He opined that Target is only willing to build the store now if the City helps finance the project. He agreed with Ms. Schaeffer that it makes no sense to move this project forward when Target is saying that it doesn’t make sense unless the City pays \$1.25 million towards the project. He stated that Target could pay for the store because their revenues were \$64,948,000 in 2008 and approximately \$67,390,000 in 2010. He noted their net earnings grew 17.3% in 2010, their revenues for the first quarter of 2011 were \$50.9 million, and the CEO’s annual salary including bonuses is \$8 million dollars and he owns \$26 million dollars worth of Target stock. He opined that the CEO could afford to pay for the store in Inver Grove Heights and the City should let Target pay the money rather than agree to a government bailout. He stated he watched the replay of the last council meeting and heard Ms. Dian Piekarski ask if things are done in the City based upon a wink and a handshake and Mayor Tourville responded no. He stated he strongly disagreed with that response because in his estimation a wink and a handshake is exactly what got the City into this financial mess. He noted Mr. Munson told the Council in 2008 to trust him and that they could approve the extension because Target was going to open by July, 2009 and they still have not opened. He stated IGH Investments LLC is asking the City to give them \$1.25 million dollars and yet they are not willing to show the City their tax returns or the company’s books to prove that the money is really needed. He stated the City provided TIF money for the interchange at Highway 55 and Concord Blvd. and now many businesses in that area are closed, including A&W, a business the City provided financial assistance to. He stated that at the last Council meeting Mr. Munson indicated that if the City was going to move forward on the project based only on the word of a developer, it should be his, and Councilmember Grannis indicated he did not trust Mr. Munson. He agreed with the opinion of Fine & Associates that the money could be put to a better use to buy the homes that are surrounded by 494, Highway 52 and commercial development. He suggested that the contract be amended to reflect that Target had to stay open for business longer than 5 years, and recommended a 25 year requirement.

Councilmember Piekarski Krech asked if there would still be enough money to buy the houses and complete the development in TIF District 4-1 if this item was approved.

Mr. Lynch stated there would be money approximately \$1.2 million dollars of fund balance that could be utilized for that area. He noted the additional increment that could be created by further development by Fine & Associates is not factored into that number. He added the City could consider utilizing money in that area and would still be able to fulfill all of the debt obligations.

Councilmember Piekarski Krech opined that completing the development in TIF District 4-1 is more critical at this point. She agreed with a lot Councilmember Grannis’ comments and stated that she understands why the City would want to jump start the Argenta Hills development. She explained she has a lot of reservations about the proposed agreement, including forgiving the loan amount and the five (5) year requirement. She stated she would like more assurance that the developer would not default on its responsibility to repay the money if Target does not stay open for five (5) years. She indicated that she would be willing to vote in favor of the agreement if it was amended to reflect that Target had to stay open for business for ten (10) years.

Mayor Tourville asked if extending the time period to ten (10) years would be a deal breaker.

Mr. Munson responded in the affirmative.

Mayor Tourville stated he would support the project because of the additional tax base it could create and the fact that it could happen now versus some unknown time in the future. He opined that if the developer completes Main Street other businesses will come to the development sooner rather than later. He stated the construction jobs involved with the project will create other jobs. He suggested that the City meet with Fine & Associates to see if something could be done for the development in TIF District 4-1.

Ayes: 3 (Klein, Madden, Tourville)

Nays: 2 (Grannis, Piekarski Krech) Motion carried.

Mayor Tourville called for a five minute recess.

B. CITY OF INVER GROVE HEIGHTS; Resolution Approving Layout No. 1 of the T.H. 52 West Frontage Road from 0.35 Miles South of Concord Boulevard to 0.20 Miles North of Inver Grove in the City of Inver Grove Heights as prepared by the Minnesota Department of Transportation

Mr. Thureen reviewed the proposed layout of the frontage road and stated the project would actually be the eighth in a series of projects constructed over the past several years in conjunction with Mn/DOT and developers. He explained this segment was included in the State's 2012 Transportation Improvement Plan, and if approved by the Council the project would be under construction in 2012. He noted the project as proposed would be fully funded by Mn/DOT. He explained the proposed frontage road system is the result of the 2002 corridor study that was done for T.H. 52 in which this segment was specifically identified as a concern in terms of safety and traffic flow. He stated the specific improvements identified were the interchange at 117th Street, closing the center median openings along T.H. 52, closing private driveways and side street entrances through this segment of T.H. 52, and construction of the frontage road system. He indicated that the project would be a two-lane, paved frontage road with concrete curb and gutter and storm sewer. He noted there would be a cul-de-sac toward the south end located in the vicinity of 9955 Courthouse Boulevard. He stated 96th Street would be realigned and the storm sewer design would involve taking the stormwater and constructing an infiltration basin in the large center median along T.H. 52. He explained the City would be responsible for the maintenance of the infiltration basin and it would have an overflow in a large depressed area on the east side of northbound T.H. 52. He stated comments were received from property owners regarding an existing drainage issue and concerns with the impact of the noise on a residential property. He stated both issues would be addressed by Mn/DOT after the shutdown ends.

Councilmember Madden asked what the purpose of the cul-de-sac was.

Mr. Thureen stated they needed a temporary turn around until the system is complete. He explained other alternatives were considered but would have required the purchase of right-of-way.

Councilmember Klein asked if there would be enough room for semi-trucks to turn around at the dead end.

Mr. Thureen stated the turn around was sized for a large school bus. He noted he would check on the turning radius for a semi-truck.

Mayor Tourville stated it would be much better than what is there now.

Councilmember Grannis asked what the approximate distance was from where the frontage road would end on the southern point of the north end to the northern end of the southern part by Briggs Drive.

Mr. Thureen stated he could obtain that information and provide it at another time. He explained the driving factor in that case is the cost incurred from needing the bridges to cross the railroad tracks.

Councilmember Grannis stated he is concerned with completing the frontage road and questioned if it would be a long time before the remainder of the segment was completed. He asked if the City were to work from the south and go north would there be a better chance of getting it completed faster.

Mr. Thureen stated in terms of length of road and dollars that are available the City can get more done now by moving forward with the project as proposed.

Mr. Lynch explained the City wanted to pursue the money that had actually been set aside for this segment.

Mr. Thureen noted that Mn/DOT has been a good partner on this project and have helped find a way to get the most done for the least amount of money.

Amy Hunting, 2645 96th Street East, stated she is very much in favor of the project. She explained there is a lot of traffic on 96th Street and the "t" intersection would help alleviate some of the congestion. She stated this site has very unique vegetation, specifically lilac bushes located along the street. She

explained her request is that she and another neighbor be allowed to take the bushes and plant them on their properties to save them. She requested that the City go to Mn/DOT and ask that they be allowed to remove the bushes in order to save them. She also asked that the City arrange to harvest the bushes and bring them down the street to be replanted.

Mr. Thureen indicated the question could be presented to Mn/DOT. He noted that Mn/DOT would likely identify that as a city-funded item.

Mayor Tourville stated that perhaps the City could find a way to have the bushes removed, and noted that those who want the bushes may not get them for free.

Councilmember Klein suggested that those who want the bushes could hire someone to remove the bushes and transport them rather than using a city vehicle and city employees.

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

Ayes: 5

Nays: 0 Motion carried.

Motion by Madden, second by Klein, to adopt Resolution No. 11-116 Approving Layout No. 1 of the T.H. 52 West Frontage Road from 0.35 Miles South of Concord Boulevard to 0.20 Miles North of Inver Grove in the City of Inver Grove Heights as prepared by the Minnesota Department of Transportation

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. 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 item was discussed at the June 27th meeting and no action was taken because two council members were absent. At the meeting the neighbor to the south spoke and inquired about the location of the tower. He stated staff subsequently met on site with the applicant and the neighbor to discuss options for other possible locations. He explained it was discovered that the septic system and reserve area are located in the northwest corner of the lot and therefore the tower could not be relocated too much further north than proposed. He noted the applicant did more detailed measuring to determine the approximate location and found the tower would be located approximately 90 feet from the west and south property lines in a natural clearing area on the lot. He stated the general consensus between all parties involved was that this approximate location would be acceptable. He added that in order to make room for the antenna on top of the tower, some trees may need to be removed or topped to allow the tower to rotate. He explained staff recommended that condition number one (1) be modified so it states, "the radio tower shall be constructed on the property at least 92 feet from the south property line and 80 feet from the west property line, and any alteration to the location shown on the site plan as revised on July 11, 2011, shall require City approval prior to issuance of any City building permits". He stated Planning staff recommended approval of the modified location of the tower and the Planning Commission previously recommended approval of the original request.

Mayor Tourville clarified that the Planning Commission did not consider the modified location of the tower.

Mr. Link confirmed that the Planning Commission approved the original request. He noted the commission did provide for modifications to condition number one (1).

Councilmember Madden questioned if the neighbor to the south agreed with the proposed location.

Bill Kostner, 10145 Cloman Path, complimented the City employees for their assistance in resolving the situation. He also thanked Mr. Webb and his family for understanding his feelings relating to the location of the tower. He stated the issue was resolved in a friendly manner and he supported the revised location of the tower.

Stephen Webb, 10115 Cloman Path, explained when he made the measurements for the revised plan he had to estimate. He stated if the approval would be for exactly 80 feet and 92 feet he is not sure it will be that exact distance. He displayed his map and reviewed the proposed location of the tower.

Mayor Tourville suggested that the approval could say approximately 80 feet and 92 feet.

Mr. Kuntz recommended adding the word approximately and using the scale on the submitted site plan.

Mr. Webb discussed the structure that would be removed and where the new one would be.

Motion by Klein, second by Madden, to adopt Resolution No. 11-117 approving a Conditional Use Permit to allow an amateur radio tower in excess of height allowed in a residential zoning district and Resolution No. 11-118 approving a Variance to exceed structure height in the Critical Area Overlay District

Ayes: 5

Nays: 0 Motion carried.

B. 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 50th Street

Mr. Link stated the property is located on the west side of 50th Street. He noted this was before the City Council on June 27th and a 4/5 vote is required. He explained that the request meets the criteria for a Conditional Use Permit and noted that the access would not change and the applicant has been working with the Engineering department to finalize stormwater and grading plans. He stated the applicant also requested two temporary sales trailers to be allowed during construction and the date for removal of the trailers had not been finalized and some legal documents need to be drafted and brought back to Council at a later date. He recommended that condition #15 of the resolution be modified to state that the trailers shall be removed no later than a date to be determined by the Development Contract or when a Certificate of Occupancy has been issued, whichever comes first. He stated both Planning staff and the Planning Commission recommended approval of the request with the amendment to condition #15.

Motion by Piekarski Krech, second by Klein, to adopt Resolution No. 11-119 approving 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 50th Street with the suggested modification to Condition #15

Ayes: 5

Nays: 0 Motion carried.

C. XPAND, INC.; Consider a Resolution for an Interim Use Permit for an Agricultural Building in the Northwest Area for property located at 1400 70th Street

Mr. Link explained the applicant proposed to construct a 1,728 square foot building to be used to store tractors associated with farming on the property. He stated the building would be metal pole construction, dirt floor, and would not have electricity or plumbing. He noted the Northwest Area Overlay District agricultural buildings by interim use permit with a time frame or event by when the building must be removed. He explained an interim use permit agreement would need to be signed by the landowner and recorded with the County prior to any structures being built. He stated staff recommended that the building be removed 3 years after either the subject property is platted or if the land within one quarter mile is platted. He explained the character of the area would change from open agricultural to residential and the continuation of agricultural buildings is not consistent with the purpose and intent of the Northwest Area Overlay District. He stated Planning staff & the Planning Commission recommended approval of the request as proposed with the conditions listed in the resolution.

Councilmember Grannis questioned why the City was requiring the building to be removed no later than 15 years after the approval of the Interim Use Permit even if there hasn't been any development or platting occurring.

Mr. Link explained the idea was to provide some certainty for the eventual removal of the building. He stated it is a temporary, interim building.

Councilmember Grannis stated he would be willing to grant the applicant a longer period of time.

Councilmember Piekarski Krech questioned if the applicant listed was the company that was going to construct the building.

Mr. Link responded in the affirmative.

Mayor Tourville asked if language could be incorporated regarding the ability of the applicant to request an extension for condition #4, letter d.

Mr. Link explained the ordinance does allow for one extension.

Councilmember Piekarski Krech suggested saying when the property is no longer farmed.

Mr. Kuntz clarified the parcel where the building would be placed is not farmed. He stated the thought process behind the number of years was related specifically to refurbishment of the building.

Motion by Klein, second by Madden, to adopt Resolution No. 11-120 approving an Interim Use Permit for an Agricultural Building in the Northwest Area for property located at 1400 70th Street

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; Consider an Ordinance Amendment to the City Code relating to Criteria for Granting a Variance

Mr. Link explained the City Attorney drafted a proposed ordinance amendment to make the City's variance regulations consistent with State Statutes. He noted due to the nature of the proposed ordinance, staff recommended that Council waive the standard three readings and approve the amendment in one reading.

Mayor Tourville asked if the two (2) variances that have been approved by Council prior to the proposed amendment would need to be reconsidered.

Mr. Kuntz responded in the negative, noting that the two variances were approved in accordance with state law.

Motion by Grannis, second by Madden, to adopt Ordinance No. 1237 amending the City Code relating to Criteria for Granting a Variance

Ayes: 5

Nays: 0 Motion carried.

E. CITY OF INVER GROVE HEIGHTS; Consider an Ordinance Amendment to Change the Zoning of Two City Owned Parcels from A, Agricultural District and R-1B, Single Family Residential District to P, Institutional District for properties located at 8336 Babcock Trail and along the 7400 block of River Road

Mr. Link explained the Council previously approved an amendment to the Zoning Ordinance to allow outdoor storage on Public zoned property for local government use. He stated the Council approved six (6) sites to be used for outdoor storage, four of which were already zoned P, Institutional. He explained the two sites being reviewed are zoned Agricultural and Residential and both sites are guided in the Comp Plan as Park or Public/Institutional. He reviewed the location of the two sites and stated the Gish property has been used for storage over many years and the Kuchera property would be a primary location for ash tree storage.

Councilmember Piekarski Krech asked what was stored on the Gish property.

Mr. Thureen stated there were some old pieces of reinforced concrete pipe, corrugated metal pipe, sealcoat rock, and spare concrete standards.

Councilmember Piekarski Krech suggested that the items be disposed of on the next City-wide clean up day.

Councilmember Klein stated it is time to get the site cleaned up.

Mr. Thureen stated the items could be removed if work was done to clear trees in order to get equipment in and out of the site.

Mayor Tourville noted the concern in the neighborhood is that the site is a junk pit for the city. He stated the original premise for the site was to have a place to store items that could be reused and if the City has no use for the materials that are on the site they should be disposed of. He noted that the City needs to try to be a good neighbor. He explained the other concern raised by the neighborhood was that the site would be used for the storage and disposal of diseased trees and they do not want the disease to spread to their currently unaffected area is not affected by diseased trees right now.

Councilmember Piekarski Krech opined if trees and weeds are growing around and through the materials the City probably has no intention of using anything on the site. She suggested that the City designate a less environmentally sensitive site for the long-term storage of similar types of materials.

Motion by Klein, second by Madden, to adopt an Ordinance to Change the Zoning of Two City Owned Parcels from A, Agricultural District and R-1B, Single Family Residential District to P, Institutional District for properties located at 8336 Babcock Trail and along the 7400 block of River Road

Ayes: 5

Nays: 0 Motion carried.

F. CITY OF INVER GROVE HEIGHTS; Consider a Conditional Use Permit to allow fill in excess of 1,000 Cubic Yards in the Floodplain for property located at 4301 63rd Street

Mr. Link reviewed the location of the property and stated the City acquired the property a couple of months ago. He explained the City is proposing to place 4 feet of fill over the site as part of the soil remediation program required by the Minnesota Pollution Control Agency. He stated fill would also be placed on adjacent properties in order to match grades. He noted the excess fill would come from the South Grove street reconstruction project. He stated at the public hearing Castaways Marina raised concerns pertaining to the drainage extending from the site to their property. He explained the grading plan was prepared by Emmons & Olivier and was reviewed by the City's Engineering department. He stated it was determined that the grading plan was designed in such a way that any stormwater extending east would be intercepted on the Doffing Avenue right-of-way and extend north, up to a pond. He noted there would be no stormwater draining onto the Castaways Marina property. He explained the marina's second concern was regarding dust control. He stated the marina had issues with dust during the larger-scale fill project done in Heritage Village Park. He noted there is a clause in the contract which requires the contractor to manage the dust. He stated staff believes both concerns raised were addressed. He stated the Planning Commission, Environmental Commission, and Planning staff recommended approval of the request.

Tom Lind, 6140 Doffing Avenue, Castaways Marina, spoke about the dust problem during the fill project at Heritage Village Park. He showed pictures of the canvas covers on his boat slips. He stated they received a bid to have them cleaned for \$450 per canvas, \$8,100 in total. He explained they are concerned that the dust will not be controlled properly. He asked the City to help clean their canvasses.

Mr. Lynch explained that the City submitted an insurance claim to the League of Minnesota cities and a determination was made that the City was not liable for the canvasses. He noted that the claim asked for the replacement of all the tops, not just cleaning them.

Mr. Lind clarified they just want assistance to clean the tops, not to replace them.

Mr. Lynch indicated they could discuss assistance to help with a portion of the cleaning because they do not believe the City caused the problem entirely.

Mayor Tourville stated this could be discussed at another time as it did not pertain to the agenda item.

Mr. Lind explained that there has been a drainage problem for years and they do not want more water coming onto their property as a result of the grading.

Mr. Kaldunski explained the grading plan. He stated in order to get rid of the water problem the road would have to be rebuilt.

Mayor Tourville suggested meeting with other neighbors in the area and City staff to come up with some solutions to the drainage issues because others may not want the street to be reconstructed.

Mr. Lind questioned if they had to use 4 feet of fill.

Mr. Link indicated that the MPCA was requiring that the City use 4 feet of fill.

Motion by Klein, second by Grannis, to adopt Resolution No. 11-121 approving a Conditional Use Permit to allow fill in excess of 1,000 Cubic Yards in the Floodplain for property located at 4301 63rd Street

Ayes: 5

Nays: 0 Motion carried.

PUBLIC WORKS:

G. CITY OF INVER GROVE HEIGHTS; Consider Resolution related to the Concord Hills Development

Mr. Kaldunski explained there is a July 15th date by which outstanding punch list items need to be completed. He stated the developer has addressed many of the items since the last meeting, and noted there are still several remaining items to be completed.

Councilmember Klein stated they usually wait until development is finished before the final lift of asphalt.

Mr. Kaldunski stated another extension could be granted.

Councilmember Grannis asked expiration of the developer's letter of credit.

Mr. Kaldunski explained that a new letter of credit through 2014 would be required if an extension is granted.

Councilmember Grannis opined that the letter of default should be sent to motivate the developer to complete the remaining items, with the exception of the final lift of asphalt.

Mayor Tourville asked the developer if the remaining items, with the exception of the final lift, could be completed by the July 22nd date.

Mr. Danner responded in the affirmative.

Motion by Klein, second by Piekarski Krech, to adopt Resolution No. 11-122 extending the deadline for completion of the final lift of asphalt.

Ayes: 5

Nays: 0 Motion carried.

ADMINISTRATION:

H. CITY OF INVER GROVE HEIGHTS; Consider Resolution Providing for the Sale of \$4,610,000 General Obligation Refunding Bonds, Series 2011A

Mr. Lynch stated the item pertains to the sale of General Obligation Refunding Bonds. He stated the estimated savings to the City would be approximately \$216,000. He noted they are also going to use \$900,000 to refund the escrow.

Motion by Klein, second by Madden, to adopt Resolution No. 11-123 Providing for the Sale of \$4,610,000 General Obligation Refunding Bonds, Series 2011A

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Councilmember Piekarski Krech notified staff of a dirt problem on Babcock Trail.

Mayor Tourville discussed the State shutdown and the City's options for recourse regarding inspections that are being delayed on larger construction project.

9. ADJOURN: Motion by Klein, second by Grannis, to adjourn. The meeting was adjourned by a unanimous vote at 12:15 a.m.