

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, MAY 14, 2012 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, May 14, 2012, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Grannis, Klein, Madden, and Piekarski Krech; City Administrator Lynch, Assistant City Administrator Teppen, City Attorney Kuntz, Public Works Director Thureen, Parks & Recreation Director Carlson, City Planner Hunting, Police Chief Stanger, Fire Chief Thill and Deputy Clerk Rheume

3. PRESENTATIONS:

A. National Public Works Week – May 20-26, 2012

Mr. Thureen read a proclamation recognizing the week of May 20-26, 2012 as National Public Works Week.

4. CONSENT AGENDA:

Councilmember Piekarski Krech removed items 4E, 4G, 4J, 4N, and 4P from the Consent Agenda.

Councilmember Grannis removed Item 4L from the Consent Agenda.

- A. i) Minutes – April 9, 2012 Council Work Session
- ii) Minutes – April 9, 2012 Regular Council Meeting
- iii) Minutes – April 23, 2012 Regular Council Meeting
- iv) Minutes – April 30, 2012 Special Council Meeting
- B. Resolution No. 12-73** Approving Disbursements for Period Ending May 9, 2012
- C.** Accept Resignation of Planning Commission Member Mike Schaffer
- D.** Approve Agreement for Community and Public Service Messages to be Displayed on a Dynamic Display Billboard located on the West Side of Hwy. 52/55 at Briggs Drive
- F.** Approve JPA for 66th Street Project with Dakota County
- H.** Approve Hwy. 52 Trail Paving Project
- I.** Approve Agreement for 2012 Citizen-Assisted Lake Monitoring Program (CAMP)
- K. Resolution No. 12-75** Accepting the Proposal of WSB & Associates, Inc. for Construction Testing Services for the 2012 Improvement Program, City Project No. 2010-41, T.H. 3 Turn Lanes at Autumn Way
- M.** Accept Donation to Inver Grove Heights Police Department from Dakota County Victim Offender Panel
- O.** Schedule Public Hearing – Drkula's
- Q.** Personnel Actions

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

Ayes: 5

Nays: 0 Motion carried.

E. Approve Cart Path Turf Repair

Councilmember Piekarski Krech clarified that the total amount budgeted for the project remained the same and no additional funds were being requested.

Mr. Carlson explained staff had previously indicated that \$400,000 would be needed over a four year period to complete the project. In the first two years, including the turf repair being requested, the project would still be within the budgeted amount of \$100,000 per year. He noted it is anticipated that the project will continue to proceed through completion over the next two year, under the budgeted amount.

Motion by Piekarski Krech, second by Klein, to approve cart path turf repair**Ayes: 5****Nays: 0 Motion carried.**

Councilmember Klein asked if Item 4D could be revisited for a simple question.

The City Council unanimously agreed to allow discussion on Item 4D.

Councilmember Klein questioned if there was someone willing to construct the sign at this time.

Mr. Hunting indicated that CBS Outdoor has obtained a building permit to construct a dynamic display billboard.

Councilmember Klein confirmed that the City would be guaranteed some use of the sign if needed.

G. Approve Skyview Park Rectangular Field Project

Councilmember Piekarski Krech questioned what the future costs of the water would be.

Mr. Carlson explained that although staff knows how many gallons of water are expected to be used to irrigate the field each time the system runs, it is hard to anticipate the total volume of water that will be used during the course of an entire season because it is impossible to predict the weather conditions.

Councilmember Klein questioned if staff intended to have the system on a timer to operate nightly during the course of the season.

Mr. Carlson responded in the negative. The system proposed to be installed utilizes the latest technology with respect to rain sensors. He noted the same technology was installed at the Mayo Clinic and they were able to reduce their water consumption by 60%. He stated staff felt they were obtaining the best system to manage the irrigation of the field and maximize the use of natural water sources.

Motion by Madden, second by Klein, to approve Skyview Park rectangular field project**Ayes: 4****Nays: 1 (Piekarski Krech) Motion carried.****J. Resolution Approving Minor Amendment to the City's Water Resources Management Plan to Add Various Storm Water Improvement Projects to the Implementation Plan**

Councilmember Piekarski Krech questioned what the cost would be if it was assessed.

Mr. Thureen explained at this point the projects that potentially could be funded through a special tax district levy included the Orchard Trail project and the Bohrer Pond project. He stated the preliminary estimate for the Orchard Trail project was approximately \$330,000. No estimate had been received for the Bohrer Pond project.

Councilmember Piekarski Krech asked if no public hearing was required because it would be part of a special tax district levy.

Mr. Thureen explained a public hearing would still be required even though it involved a different process than a special assessment.

Motion by Piekarski Krech, second by Klein, to adopt Resolution No. 12-74 approving a minor amendment to the City's Water Resources Management Plan to add various storm water improvement projects to the implementation plan**Ayes: 5****Nays: 0 Motion carried.****L. Resolution Accepting Proposal from Braun Intertech Corp. for Construction Geotechnical and Environmental Services for the 2012 Improvement Program, City Project No. 2011-08, 66th Street Improvements (Concord Blvd. to Swing Bridge Pier) and City Project No. 2011-21, Park Improvements**

Councilmember Grannis stated his concerns regarding Braun Intertec have been well documented.

Motion by Klein, second by Madden, to adopt Resolution No. 12-76 accepting proposal from Braun Intertec Corp. for Construction Geotechnical and Environmental Services for the 2012 Improvement Program, City Project No. 2011-08, 66th Street Improvements (Concord Blvd. to Swing Bridge Pier) and City Project No. 2011-21, Park Improvements

Ayes: 4

Nays: 1 (Grannis) Motion carried.

N. Approve Stairs for the Rock Island Swing Bridge Overlook

Councilmember Piekarski Krech questioned what the total cost would be if the railings would not be installed until after the stairs. She asked if the City would be experiencing a cost savings by hiring Tree Trust.

Mr. Carlson explained the City only obtained a cost from Tree Trust because of their commitment to youth employment in the summer time. He stated the cost of the railing is not known at this time. After the stairs have been constructed, contractors would be able to actually visit the site and obtain accurate measurements to provide pricing for the railing.

Councilmember Piekarski Krech questioned how the stairs could be built if no plans were engineered.

Mr. Carlson explained there was a plan for the stairs, but it was not an engineered plan because the City did not spend the money to hire an engineer to design the set of stairs. The recommended contractor, Tree Trust, would install the stairs based on the conditions they encounter.

Councilmember Piekarski Krech questioned how they could be certain that the stairs would be appropriately designed and functional. She stated the stairs would be utilized by members of the public and they need to make sure that they are safe.

Mr. Carlson reiterated that a plan was developed but it was not developed by an engineer so the exact measurements and layout for the stairs are not specifically known and readily available.

Mayor Tourville questioned if the stairs met the requirements of State and City Code. He stated Tree Trust is very experienced in projects of this nature.

Mr. Carlson indicated the stairs met code.

Councilmember Klein stated he would have preferred a trail to the scenic overlook rather than stairs.

Mr. Carlson explained a number of visitors have already used the steep embankment and would continue to do so with or without stairs. He stated the stairs would provide a safe way for visitors to get up and down the embankment. He noted the Parks and Recreation Advisory Commission felt the stairs would be an important safety feature for visitors.

Councilmember Madden stated people are less likely to travel all the way back on the trail. He confirmed that the Parks Commission voted unanimously in favor of installing the stairs.

Councilmember Piekarski Krech questioned how much money the City had in the 66th Street project fund for parks.

Mr. Carlson estimated approximately \$300-350,000. He stated the stairs project was eligible to be funded with grant money the City received from the State bonding fund.

Mayor Tourville opined that it would be a major mistake not to install the stairs.

Councilmember Piekarski Krech stated she is in favor of the stairs, she simply wants to ensure that the project is done correctly and that the City is getting the most value for its money.

Councilmember Klein questioned how people would be kept off the stairs until the hand rails are installed.

Mayor Tourville stated signs would be posted notifying visitors not to use the stairs until the rails are completed.

Motion by Madden, second by Tourville, to approve stairs for the Rock Island Swing Bridge Overlook**Ayes: 3****Nays: 2 (Klein, Grannis) Motion carried.**

P. Resolution Approving Contracts with John Wheeler and Walker Lawn Care for Lawn Service

Councilmember Piekarski Krech stated no background information was provided on John Wheeler.

Mr. Lynch explained that Mr. Wheeler was the City's current contractor and had served in that capacity for the previous two (2) years.

Councilmember Piekarski Krech confirmed that the City also contracted with Walker Lawn Care.

Councilmember Madden clarified that the information was also advertised at City Hall, on the City's website, and in the newspaper.

Allan Cederberg, 1162 82nd St. E., questioned what the proposed rate of \$32.50 per hour included. He also questioned why two (2) contractors would be hired when their rates are significantly different.

Mayor Tourville explained that two contractors would be hired in order to ensure that the work that needs to be done is able to be completed in a timely fashion. If one of the contractors is working on another job site and is unable to respond to a City request, then the alternate contractor is contacted to perform the work. He noted the City always attempts to use the contractor with the lowest rate first.

Mr. Lynch stated the City requested that contractors respond to the request for proposal with an hourly rate. He explained the City would be billed \$32.50 per hour for the work whether the contractor uses one (1) person or five (5) people to complete the job. It is up to the contractor to determine how many people are needed to do the work that is specified.

Councilmember Piekarski Krech questioned how many bids the City received.

Mr. Lynch indicated that two (2) bids were received.

Mayor Tourville stated the City has been happy with the work performed in the past by each of the contractors.

Motion by Klein, second by Madden, to adopt Resolution No. 12-77 approving contracts with John Wheeler and Walker Lawn Care for Lawn Service**Ayes: 4****Nays: 1 (Piekarski Krech) Motion carried.****5. PUBLIC COMMENT:**

Mr. Lynch stated DNR Officer Gutierrez was in attendance to address the Council about fire arms safety training.

Alex Gutierrez, 2nd Lieutenant DNR Division of Enforcement, explained he was approached by a volunteer fire arms safety instructor with an inquiry regarding the potential of hosting the fire arms safety educational program on property owned by Vance Grannis Sr. He stated one of the issues that came up was the existence of an ordinance which prohibits the discharge of fire arms within City limits.

Mayor Tourville questioned what the process would be if the request was to move forward.

Mr. Lynch stated Mr. Grannis submitted a land use application that would first be considered at a public hearing held in front of the Planning Commission. Following consideration by the Planning Commission, the request would be brought to the City Council for a final decision. He explained the program is operated by the DNR. Police Chief Stanger met with Officer Gutierrez to discuss the program and examine the proposed location and was supportive of the request.

Councilmember Madden questioned who the program was intended to train.

Officer Gutierrez explained the program is open to anyone interested. He stated the point is to teach people how to safely handle and discharge fire arms.

Councilmember Madden clarified it would be open to anyone interested in learning about fire arm safety.

Officer Gutierrez explained the training program was limited to a certain caliber of fire arm and users at any given time. The environment is extremely controlled with instructors present at all times.

Councilmember Madden questioned if Officer Gutierrez felt the proposed site was safe.

Officer Gutierrez responded in the affirmative. He explained the site included an approximate 100 foot elevation that would provide a very controlled environment for the program.

Councilmember Klein questioned if the neighbors would hear the shots being fired.

Officer Gutierrez stated the program is limited to certain hours of the day, usually on weekends. He stated the fire arm would be no louder than a bb gun. He stated the same amount of ammunition is fired by all participants at the same time.

Mayor Tourville stated if the request was approved it would be important to notify the neighborhood.

Councilmember Madden stated the proposed location is very remote and should not cause any issues with the neighbors.

Officer Gutierrez stated the proposed site exceeds the typical ranges set up by the program by approximately 70 feet.

Councilmember Piekarski Krech stated her understanding was that participants would only be given bullets when they are in position to fire.

Officer Gutierrez indicated that was the procedure.

Allan Cederberg, 1162 82nd St. E., commented that filing for City offices would open on May 22nd and continue through June 5th. He stated the information was printed in the newspaper, but was not included in the most recent issue of Insights. He opined that the Council members whose seats were up for re-election should indicate whether or not they intended to run for office again.

Councilmember Klein stated his intentions would be published in the newspaper.

Mayor Tourville stated the offices of Mayor and two (2) Council member terms would be up for election.

Mr. Cederberg requested that the meeting schedule for the Housing Committed be published in the Insights newsletter.

6. PUBLIC HEARINGS:

A. CITY OF INVER GROVE HEIGHTS; Assessment Hearing for City Project No. 2001-12, Concord Boulevard Reconstruction Phase II

Mr. Kaldunski reviewed the project area along Concord Blvd. He stated the large project was funded by the City, Dakota County, and Mn/DOT. He explained 305 properties were proposed to be assessed a total amount of \$391,401.82. The recommended assessment term was ten (10) years at a 4.8% interest rate. The suggested assessment caps, based on the appraisal analysis, were \$4,000 for single-family properties and \$2,000 for multi-family properties.

Bonnie Province, 7861 Concord Blvd., stated the assessment she received was \$21,599.00. She explained she was informed that approximately \$7,000 of the total assessment was because of the road frontage and the fact that it was being assessed as two properties because of the zoning designation attached to the parcel. She stated there was only one home on the property and the way it was situated did not allow enough buildable property for two buildings on two separate parcels. She noted that Dakota County took her drain field because it was located in the right-of-way and forced her to connect to the sewer system. She stated she was told that in exchange for her drain field the County would cover the

cost of connecting her property to the sewer system, but she did not get the commitment in writing. She explained as a result of the County taking her drain field her front porch was now located two (2) feet away from the right-of-way.

Mayor Tourville questioned if she had a contact person that she spoke to at Dakota County.

Ms. Province stated the person she dealt with had since retired and no longer worked at the county.

Mr. Thureen explained he contacted the Assistant County Engineer regarding the issue and they were not able to find anything in the records which indicated that the county intended to cover the costs related to connecting the property to the sanitary sewer system. He stated they were able to find information regarding the drain field on the property and the need to remove it because it was located in the right-of-way. He noted he was not aware of the history of the right-of-way over time with respect to any shifts that may have occurred between the time when the state owned the property and when it was turned back to the county.

Councilmember Klein stated it was obvious the right-of-way changed because a two-lane road was expanded to four lanes.

Mr. Thureen maintained that the right-of-way did not change for this specific project. He stated temporary easements were purchased to facilitate the work related to the sanitary sewer. The right-of-way that existed when Concord Boulevard was a state highway did not change with the project.

Councilmember Klein asked why the county took Ms. Province's drain field if the right-of-way did not change.

Mr. Thureen explained the drain field was taken because it was located in the right-of-way and the county needed to utilize the right-of-way for the project.

Mayor Tourville questioned if the property was considered to be two (2) lots.

Mr. Hunting explained the property was zoned R-2 and there would be enough land area to potentially divide the lot.

Mayor Tourville stated Ms. Province may want to consider entering into an agreement with the City that would memorialize her intentions to keep the property as one lot and not subdivide it. He noted there should be a record of who hired the contractor to install the sanitary sewer service.

Mr. Kaldunski stated the county would have been responsible for that action.

Mr. Thureen noted the sanitary sewer service was a part of the plans for the road improvement because the drain field and septic system were going to be removed as part of the project.

Mayor Tourville asked what the preliminary assessment was estimated to be.

Mr. Kaldunski indicated that the preliminary assessment amount that was sent to Ms. Province approximately a year and half ago was within \$200 of the proposed final assessment.

Mayor Tourville asked staff to put together an estimate of what the costs would be if the property was assessed as one (1) lot and Ms. Province signed an agreement indicating that she would not subdivide the property.

Mr. Kuntz asked that the components of the approximately \$21,000 assessment be reviewed.

Mayor Tourville asked if a decision on Ms. Province's assessment had to be made right away or if it could be postponed to allow for some of the complexities to be worked out.

Mr. Kuntz informed the Council that they could close the hearing for all parcels, with the exception of Ms. Province's parcel, and adopt a resolution levying an assessment roll with the parcel in question excepted out. The hearing would be continued and a separate assessment roll for that particular parcel would be adopted.

Mr. Kaldunski stated the assessment for the street reconstruction component was \$3500 per parcel, for a total of \$7,000 for Ms. Province's property. The remaining \$14,000 is related to the sanitary sewer service.

Steve Nelson, Chief Manager of ABE Investments, stated he owned the property at the southwest corner of 80th Street and Concord Boulevard. He explained the property occupied 190 feet along Concord and 275 feet along 80th Street and provided no access to either of those streets because it has no private easements to gain access. He noted that fact was discovered after the property was purchased. The easterly 65 feet of the property is subject to an easement relative to the sewer. He contended that his property received no benefit from the project. He also argued that he did not have access via the two (2) private roads that run up to the property.

Mr. Kaldunski stated the property owned by ABE Investments has several access points located just off the property. He pointed out the sanitary sewer easement along Concord Boulevard. He explained there are two (2) roads that go directly to his parcel but are not located on the property. The plat was specially marked with a symbol that denotes that no access would be allowed other than the in the spots specifically identified on the plat. He noted he was unable to find any documentation indicating that the property owned by ABE Investments had access to the adjacent property containing the private roads.

Mayor Tourville questioned when the property was purchased and why it was purchased without access.

Mr. Nelson stated in 2004 or 2005. He explained when the property was purchased it was represented that they would have access.

Councilmember Klein questioned what the title said.

Mr. Nelson stated the title did not address the access.

Mayor Tourville stated the property owner would have to go through the development process with the county to get an access.

Mr. Nelson questioned why his property was being assessed 14 cents per square foot.

Mr. Kuntz questioned if the property was purchased from Tom Thumb.

Mr. Nelson responded in the affirmative.

Mr. Kuntz questioned if Mr. Nelson statement to the Council was that Tom Thumb sold him a property that did not have access to either 80th Street or Concord Boulevard.

Mr. Nelson responded in the affirmative.

Mr. Kuntz explained he would not accept that statement without further investigation into the matter.

Mayor Tourville agreed that additional investigation was warranted.

Councilmember Piekarski Krech stated Mr. Nelson claimed he did have a direct access to 80th Street or to Concord Boulevard.

Mr. Kuntz stated Mr. Nelson is claiming more than that because he claimed he had no access at all to either of those roads.

Mr. Nelson explained his understanding is that the two roads that run into his property are private roads owned by the homeowner's association for which he does not have an easement over.

Mr. Kuntz stated both parties should investigate whether or not an easement exists for the private roads.

Motion by Klein, second by Madden, to close the hearing with the exception of the two properties owned by Bonnie Province and ABE Investments.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech, second by Madden, to continue the public hearing related to the

Province and ABE Investments properties to May 29, 2012.**Ayes: 5****Nays: 0 Motion carried.****Motion by Klein, second by Madden, to adopt Resolution No. 12-78 approving the assessment roll for City Project No. 2001-12, Concord Boulevard Reconstruction Phase II with the removal of the properties owned by Bonnie Province and ABE Investments****Ayes: 5****Nays: 0 Motion carried.****B. CITY OF INVER GROVE HEIGHTS;** Consider Resolution Ordering the Project and Approving Plans and Specifications for City Project No. 2011-04, 93rd Street Improvements from 90th Street East to Abigail Court

Mr. Kaldunski explained the project was initiated by a petition from residents on 90th Street. Eleven residents signed the petition and provided funding for the completion of a feasibility study. Several neighborhood meetings were held to present the results of the feasibility study and a number of residents expressed concern regarding the high cost of the project. Because a road would be constructed where none currently exists, the City's policy to assess the project 100%. He explained in addition to the high costs of the project, several other challenges exist with respect to obtaining signed agreements from residents waiving the right to an assessment appeal, the Green Acres status of a particularly large parcel, and the need to obtain easements for future storm water management. He noted because of the high costs involved there was not broad support for the project from the residents of the neighborhood.

A resident spoke in favor of the project because of the bottleneck on the gravel road that serves nine (9) houses. He expressed safety concerns with emergency vehicle access and stated there would be value in getting better access to the nine (9) houses serviced by the road.

Michael DeMars, 1250 90th St. E., stated the cost of the project was too high and he would not be able to afford it.

Dan Radford, 1244 90th St. E., He stated he has had no access issues since he has lived there and the project was unnecessary.

The property owner at 12019 93rd St. E. stated the residents on 93rd Street and Abigail Court were totally opposed to the project because their quiet neighborhood would be disrupted with additional traffic and the removal of trees.

Joe Hedlund, 1242 90th St. E., stated the cost of the project was too expensive and not affordable for residents.

Don Voight, Abigail Ct., stated he was opposed to the project because he wanted to preserve the privacy on his property and in the neighborhood. He presented a petition from the residents on Abigail Court who opposed the project.

Motion by Klein, second by Madden, to receive petition from residents on Abigail Court**Ayes: 5****Nays: 0 Motion carried.**

Barb Yager, 1254 90th St. E., stated she recently purchased her property and was unaware that there could potentially be a road construction project occurring. She explained she would not be able to afford the proposed assessment and asked the Council to terminate the project.

Jim Brown, 1186 90th St. E., stated the residents are opposed to the project and were only in favor of finding out what the project would cost.

Councilmember Madden clarified that the residents asked the Council to look at the project.

Councilmember Piekarski Krech questioned if 90th Street was a City street.

Mr. Kaldunski responded in the negative.

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

Ayes: 5

Nays: 0 Motion carried.

Motion by Madden, second by Klein, to adopt Resolution No. 12-79 terminating City Project No. 2011-04, 93rd Street East Improvements from 90th Street East to Abigail Court

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. PAUL AND JULIE ENGLESON; Consider Resolution relating to a Variance to Install a Pool and Perimeter Walk 12 Feet from the Front Property Line whereas 30 Feet is required for property located at 6239 Boyer Path

Mr. Hunting explained the applicant's request was for an 18 foot variance to construct a pool and perimeter walk 12 feet from the front property line whereas 30 feet is required. The applicant's property is a corner lot with more restrictive setbacks because, by definition, corner lots have two front yards. The pool would be screened with a privacy fence along Bolland Trail and the property would be in compliance with impervious surface standards. He stated staff believes the 18 foot variance request was significant and that the applicant did not identify practical difficulties to comply with the ordinance as the pool could be constructed on the property in order to meet setback requirements if the design was modified. Both Planning Staff and the Planning Commission recommended denial of the variance request because the setback standards do not preclude the homeowner from reasonable use of the property and approval of a pool located 12 feet from the corner front property line could set a precedent for other pools on corner lots and have an effect on neighborhood aesthetics.

Julie Engleson, 6239 Boyer Path, stated following the Planning Commission meeting she and her husband slightly modified their proposed plan. She explained that if the pool was configured differently or placed in an alternate location they would lose other space in their yard. She stated her development was somewhat secluded and her neighbors were all in favor of the pool because they intended to install a privacy fence to enclose the area. She stated with the fence coming off the back of the house the pool would not even be visible from Bolland Trail. She noted that she did not think it would be reasonable to place the pool in the location recommended by the Planning Commission because it would be extremely close to her existing porch area and would limit the full use of her property.

Councilmember Madden stated his main concern was the precedent that would be set and the request would change the character of the neighborhood.

Mr. Hunting noted that the fence could be located along the property line but a 30 foot setback would be required along Bolland Trail.

Ms. Engleson reiterated that the pool would be more intrusive if it was located where the Planning Commission recommended and it would not be visible because of the privacy fence.

Mayor Tourville stated the precedent concerns were a major issue.

Councilmember Klein agreed that the applicants should modify the plan to get closer to the required setbacks.

Mr. Hunting advised there was enough useable space in the backyard to locate the pool in such a way that a variance would not be necessary.

Mayor Tourville suggested that the applicants consider a different orientation.

Ms. Engleson explained the pool they were hoping to build would be too large to fit in the backyard.

Councilmember Klein stated it may still be able to work if the applicants changed their mindset a little bit.

Mayor Tourville stated the item could be tabled to allow the applicants to meet with staff to figure out where the pool could go on the property without a variance or with a smaller setback.

Motion by Piekarski Krech, second by Madden, to table consideration of the item to the June 11, 2012 Regular City Council Meeting and to direct staff to exercise the second sixty day timeframe.

Ayes: 5

Nays: 0 Motion carried.

B. PADDY AND SUSAN McNEELY; Consider Resolution relating to a Variance to Construct an Addition 40 Feet from the Rear Property Line whereas 50 feet is required for property located at 17 High Road

Mr. Hunting stated the applicant's property was 1.92 acres in size and was zoned E-2, Estate Residential. He explained the applicant would like to construct an addition onto their home 40 feet from the rear yard property line whereas 50 feet is required. He stated the lot was unique because it is wider than it is deep and with greater front and rear setbacks than side setbacks it would be difficult to comply with the setback requirements. He noted the septic system is located on the north side of the home and a wetland and drainage swale were located on the north half of the lot. An additional drainage swale to the south of the home further limits the buildable area of the property. Both Planning staff and the Planning Commission recommended approval of the variance because it is in harmony with the general intent of the ordinance and consistent with the comprehensive plan. The proposed addition would not have a negative impact on the surrounding properties and the property owner is proposing to utilize the property in a reasonable manner.

Susan McNeely, 17 High Road, stated no trees would be affected by the construction of the addition.

Motion by Piekarski Krech, second by Klein, to adopt Resolution No. 12-80 relating to a Variance to Construct an Addition 40 Feet from the Rear Property Line whereas 50 Feet is required for property located at 17 High Road

Ayes: 5

Nays: 0 Motion carried.

C. DAVID WHEATON (MACALESTER COLLEGE); Consider Resolution relating to Vacation of Certain Street Rights-of-Way within the Plat of Dorr's Third Inver Grove Addition along the River and approve a Resolution Conveying Property to Macalester College

Mr. Hunting stated the City approved the first part of the right-of-way vacation on March 26, 2012. He explained at that time there were portions of right-of-way that directly abutted the Mississippi River and could not be acted upon until the DNR had a chance to comment on the vacation. The DNR responding in writing that they had no comment regarding the vacation. He stated at the March 26th meeting it was also discussed that the City agreed to convey a small, unused property along the river to Macalester College for inclusion in their conservation area. The City Attorney prepared a resolution and agreement by which the City would convey the land to Macalester on or about January 2, 2015.

Motion by Piekarski Krech, second by Madden, to adopt Resolution No. 12-81 relating to Vacation of Certain Street Rights-of-Way within the Plat of Dorr's Third Inver Grove Addition along the river and Resolution No. 12-82 Conveying Property to Macalester College

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; Consider the Second Reading of an Ordinance Amendment to allow Community Gardens as a Permitted Use in the Residential and Public/Institutional Zoning Districts

Mr. Hunting explained Council directed staff to look into language addressing the general maintenance of community gardens. Staff reviewed other ordinances and did not find any additional language that was

not in the draft presented to Council. He noted the proposed ordinance provided more requirements for maintenance than any of the other ordinances that were reviewed. He stated staff recommended no further changes.

Councilmember Piekarski Krech stated the original intent of the ordinance was to address community gardens on public or institutional properties, not residential. She opined that the City should not be regulating private, residential property.

Mayor Tourville suggested that the ordinance could be changed to just address properties zoned public or institutional.

Councilmember Klein stated he was still opposed to the ordinance and would only be in favor of developing guidelines for groups wanting to start a community garden.

Councilmember Madden questioned if changing the ordinance so it would only apply to the Public and Institutional zoning districts would address the issue.

Mr. Hunting explained it would solve the problem for the church who originally inquired about a community garden, but it would not address the issue in residential areas where a community garden, not a private garden, is not considered to be a typical accessory use.

Councilmember Klein opined that this has never been an issue in the past and there was nothing to say that a church could not start a community garden.

Mayor Tourville stated they were advised that an ordinance was legally required.

Mr. Kuntz stated the adoption of performance standards is separate from the need for the ordinance. He explained when the question was posed to the Planning staff it did not appear as though a community garden was a commonly understood accessory use for a church property. The ordinance would serve to allow community gardens on public or institutional properties, such as is owned by a church.

Councilmember Klein commented that an ordinance means enforcement and additional staff time. He suggested if the ordinance was to move forward that community gardens should also be allowed on excess City property.

Mr. Kuntz stated if the Council chooses to limit the ordinance to address public or institutional zoning districts it would solve the immediate problem but would not address the issue that may inevitable come up in the future with respect to community gardens being cultivated on residential properties.

Mayor Tourville stated he would be amenable to including commercial and industrial zoning districts as well, but not allowing community gardens carte blanche in residential districts. He suggested limiting them to residential properties larger than 2.5 acres.

Councilmember Piekarski Krech stated she was against regulating homeowners.

Mayor Tourville explained regulation may be necessary if it is causing a problem in the neighborhood.

Mr. Kuntz stated the solution may be to amend the definition section of the ordinance to include an element of ownership and occupancy with respect to personal gardens.

Jerry Bretoi commented that an ordinance was overkill and unnecessary. He opined if church congregations want to plant community gardens they should be allowed to without regulation.

Councilmember Madden suggested that staff draft the language changes for the third reading to allow community gardens in commercial and industrial zoning districts in addition to the zoning districts previously discussed.

Motion by Piekarski Krech, second by Madden, to approve the Second Reading of an Ordinance Amendment to allow Community Gardens as a Permitted Use in the Residential and Public/Institutional Zoning Districts

Ayes: 4

Nays: 1 (Klein) Motion carried.

PUBLIC WORKS:**E. CITY OF INVER GROVE HEIGHTS;** Consider Resolution Awarding Contract for City Project No. 2010-41, T.H. 3 Turn Lanes at Autumn Way

Mr. Kaldunski stated three (3) contractors submitted bids for the project that would provide access to the 2nd, 3rd, and 4th Additions of the Argenta Hills development. He explained the low bid was submitted by Max Steininger, Inc. with a base bid of \$480,706.02. He noted the base bid was higher than the engineer's estimate. The City entered into agreements with Inver Grove Heights LLC which require the developer to provide the funding for the most of the project. The City also entered into a cooperative agreement with Mn/DOT for funding for the project. He explained the City would be funding the storm sewer/pond outlet under T.H. 3. The cost for this work would be \$11,226.19.

Councilmember Piekarski Krech questioned why the bid was higher than the engineer's estimate.

Mr. Kaldunski stated a number of factors could have contributed to the difference. The cost of bituminous has slightly increased because oil prices have gone up, and the project was bid as a state contract.

Motion by Klein, second by Madden, to adopt Resolution No. 12-83 Awarding Contract for City Project No. 2010-41, T.H. 3 Turn Lanes at Autumn Way

Ayes: 5

Nays: 0 Motion carried.

F. CITY OF INVER GROVE HEIGHTS; Consider Resolution Awarding Contract for City Project No. 2012-09D, 65th Street Neighborhood and Cahill Ct. Street Reconstruction

Mr. Kaldunski stated four (4) bids were submitted for the project. The low base bid was submitted by Friedges Contracting Co. LLC in the amount of \$4,715,686.33. He noted the low bid was 9.3% less than the engineer's estimate.

Mayor Tourville stated he received a letter from a resident on Blackhawk Trail regarding the project.

Motion by Klein, second by Grannis, to receive letter submitted by Sharon O'Hara

Ayes: 5

Nays: 0 Motion carried.

Motion by Klein, second by Grannis, to adopt Resolution No. 12-84 Awarding Contract for City Project No. 2012-09D, 65th Street Neighborhood and Cahill Ct. Street Reconstruction

Ayes: 5

Nays: 0 Motion carried.

FINANCE:**G. CITY OF INVER GROVE HEIGHTS;** Approve Carryover of Unused Budget Appropriations, Approve Transfer, Interfund Loan Activity, and Closing of Funds

Ms. Smith explained appropriations for the 2011 budget expired on December 31, 2011. Because some items were not completed in 2011, the carryover of unused appropriations to the 2012 budget is requested. She reviewed the carryover requests from the General Fund and the Community Center. She also provided an overview of the transfers that were requested, including \$407,657 from the Host Community Fund to the Community Center fund to cover the operating deficit for 2011. She noted the budgeted transfer was \$503,200. She outlined the requests for the closure of specific funds and the forgiveness of interfund loans through transfers. She stated prior to the carryover requests the General Fund had an estimated surplus of \$545,000. The 2011 budget anticipated a contribution from the fund balance of \$524,500.

Councilmember Piekarski Krech expressed concerns regarding the Host Community Fund balance. She stated going forward she would like to see information in a format similar to that of a check book so she can more easily understand how much money is actually available.

Councilmember Grannis questioned how the loan forgiveness would be documented.

Ms. Smith explained the transaction shows as a transfer in so it would appear in the budget.

Motion by Grannis, second by Madden, to adopt Resolution No. 12-85 approving Carryover of Unused Budget Appropriations, Transfers, Interfund Loan Activity, and Closing of Funds

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR AND COUNCIL COMMENTS:

Motion by Madden, second by Grannis, to schedule a Special Council Meeting on May 21, 2012 at 7:00 p.m. in the City Council Chambers to consider appointments to Citizen Advisory Commissions

Ayes: 5

Nays: 0 Motion carried.

9. ADJOURN: Motion by Grannis, second by Piekarski Krech, to adjourn. The meeting was adjourned by a unanimous vote at 10:30 p.m.