

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
TUESDAY, MAY 29, 2012 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Tuesday, May 29, 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, City Attorney Kuntz, Public Works Director Thureen, Parks & Recreation Director Carlson, Community Development Director Link, Police Chief Stanger, Fire Chief Thill and Recording Clerk Fox

3. PRESENTATIONS:

4. CONSENT AGENDA:

Councilmember Klein removed item 4G from the Consent Agenda.

- A. i) Minutes – April 23, 2012 Council Work Session
- ii) Minutes – May 14, 2012 Council Work Session
- iii) Minutes – May 14, 2012 Regular Council Meeting
- iv) Minutes – May 21, 2012 Special Council Meeting
- B. **Resolution No. 12-86** Approving Disbursements for Period Ending May 23, 2012
- C. Approve Appointment of Ex-Officio Members of the Inver Grove Heights Fire Relief Association Board
- D. Approve 2012 Collective Bargaining Agreement with International Union of Operating Engineers, Local 70
- E. **Resolution No. 12-87** Accepting Amendment No. 3 to the Proposal for Engineering Services from Bolton & Menk, Inc. for the 2012 Pavement Management Program, City Project No. 2012-09D, Urban Street Reconstruction – 65th Street Neighborhood and Cahill Ct.
- F. Approve the Development Contract and related agreements for the Plat of East Campus Second Addition (Dakota County CDA)
- H. Approve Request for One-Day Liquor License Extension to Outdoor Area
- I. Personnel Actions

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

Ayes: 5

Nays: 0 Motion carried.

- G. Approve Joint Powers Agreement with Dakota County to Establish Pharmaceutical Drug Disposal Program

Councilmember Klein questioned if the police department would be taking the pharmaceutical drugs and sending them to Dakota County for disposal.

Councilmember Piekarski Krech noted there were already at least two (2) disposal sites in Dakota County.

Chief Stanger stated there were three (3) active disposal sites in the County. He explained the City was asked to enter into the JPA with the County to support the program. He noted the JPA would also allow the City to become an active participant in the program. He explained staff would like to see what kind of items would be collected and how the collection process works before installing a collection site in the City. He noted the Sheriff's office estimated that they have already collected over 1,200 pounds of pharmaceutical drugs at the three (3) active collection locations in the County.

Motion by Klein, second by Madden, to approve Joint Powers Agreement with Dakota County to establish pharmaceutical drug disposal program

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT: None.

6. PUBLIC HEARINGS:

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

Mr. Kaldunski stated this item pertained to the continuation of the assessment hearing for two parcels on Concord Boulevard. The two parcels, one (1) commercial, one (1) duplex, were proposed to be assessed a total of \$28,831.20, at a 4.8% interest rate over a 10 year term. He stated the council took action at the last regular meeting to adopt the assessment roll for the other parcels involved in the project.

Mr. Kaldunski explained the property owned by Bonnie Province is comprised of two single-family home assessments because a duplex could be built on the property due to the zoning classification. He noted that staff did verify that the setbacks on the site would not affect her ability to build a duplex on the property. He explained Ms. Province requested consideration for deferment of the second unit until such time that was constructed. He explained staff contacted the Dakota County Transportation department regarding Ms. Province's questions pertaining to her septic system and the right-of-way in front of her property. The County's response indicate they did not intend to pay for any of the costs related to this property other than the cost associated with the temporary easement, \$2,200. With respect to this parcel staff recommended that the assessment be levied at \$21,599.40. If the Province's signed a special assessment agreement within 30 days the City would defer the assessment allocated to the duplex unit. In 2012 a total of \$13,800.98 would be assessed for the sewer service, plus \$3,779.22 for a single family unit, for a total of \$17,580.20. If the lot was subdivided or a building permit for a duplex was issued by the City in the next 30 years, an assessment of \$240.00 for sanitary sewer and \$3,779.22 for the street would be levied.

Mr. Kaldunski stated the second parcel, owned by ABE Investments, is a commercially zoned property located on the corner of 80th Street and Concord Boulevard. He explained the proposed assessment for the parcel was \$0.14 per square foot. The appraisal analysis recommended an assessment cap of \$1 per square foot. He noted Steve Nelson submitted an objection letter at the hearing on May 14, 2012. He stated the issue regarding access to the property was resolved after a review of the title policy revealed the existence of easements over the existing private roads adjacent to his property. Staff recommended levying the proposed assessment of \$7,231.78.

Bonnie Province, 7861 Concord Boulevard, stated she was offered to defer \$3,500 from the road frontage assessment if she signed an agreement indicating they would not add another home on the property. She asked if there was anything that could be done about the \$14,000 sewer assessment.

Councilmember Klein questioned why the property owner was not compensated if their drain field was taken and they were forced to hook up to the sanitary sewer.

Ms. Province stated they were told they could not be compensated for it because the right-of-way moved into the drain field.

Councilmember Klein questioned if the drain field was always there, dating back to the early 1930's.

Ms. Province stated to the best of her knowledge it was there dating back to 1935.

Mr. Kuntz stated if the drain field was located in the County right-of-way and the right-of-way was established, it is not considered to be a "taking" of what the County already owns. He noted he did not know happened prior to 1935.

Councilmember Klein questioned how a drain field could ever be built in the County's right-of-way.

Mr. Kuntz stated the County believes their right-of-way was established since 1935.

Ms. Province stated the house was built in 1900. She commented on the road moving closer to the house because the parking lot for an old restaurant was located between her house and Concord.

Mayor Tourville stated the County has said they will not pay for the drain field.

Ms. Province stated they never addressed the second part of the question related to who would be paying for the sewer hook-up.

Mayor Tourville explained in other instances where it has been located in the right-of-way, the County has never paid. He stated unfortunately it was not a City project, so there is not a lot of room for negotiation. He opined that they may be able to help with decreasing the amount of front footage that is assessed and the execution of the special assessment agreement to defer part of the total assessment.

Ms. Province asked if it would be possible to extend the assessment term to 15 years.

Mayor Tourville stated it was a possibility.

Councilmember Piekarski Krech stated after reading all of the documents it appears that the septic system would have had to be replaced, and the standard cost for that would have been \$10-15,000.

Ms. Province stated the issue was the material that was removed to perform utility work while the project was going on. They had to have the septic system pumped every couple of months as a result.

Mr. Kuntz explained the statutory structure allows the Council to set different timeframes for payment of special assessments for different classes of property. He stated a different repayment term cannot be set for an individual but a separate class could be created. A different repayment term of 15 years could be established by creating a duplex class.

Motion by Klein, second by Madden, to adopt the assessment roll for City Project No. 2001-12, Concord Boulevard Reconstruction - Phase II, Parcel 1 and to create a duplex class to allow for 15 year repayment term with the provision that if the property owner executes the special assessment agreement within 30 days the assessment roll will be amended to reflect the amounts outlined in the agreement.

Ayes: 5

Nays: 0 Motion carried.

Steve Nelson, ABE Investments, expressed several concerns regarding the amount of the assessments. He stated he does not see how the improvement increases the value of his property. He explained he talked to an appraiser and was told this type of project would not increase the property value. He questioned if a partial credit was given for the work that was done on 80th Street.

Mayor Tourville questioned if the piece of property was previously assessed for projects on 80th Street or Concord Boulevard.

Mr. Kaldunski stated he researched back to the year 2000 and could not find any previous assessments.

Mr. Thureen noted Concord was a state highway and there would not have been any previous assessments associated with it. He explained with this project Concord Boulevard officially became a County road.

Mayor Tourville suggested more time may be needed to research if any assessments were previously levied against the property.

Mr. Nelson stated he would like to know if he received a corner credit for the 190 feet on Concord Boulevard.

Mr. Kaldunski explained when the City has projects that are on corner lots, they do consider credits. If both 80th Street and Concord Boulevard had been included in the project, a credit would have been calculated for the property that would have assessed only the length along Concord Boulevard and a portion of the frontage along 80th Street. He stated the parcel is being assessed for this project for the front frontage along Concord Boulevard at a uniform rate for this class of user.

Mayor Tourville clarified that no corner lot credits were given because both streets were not done as part of the project.

Councilmember Piekarski Krech asked if any assessments would have been levied for 80th Street that

would have qualified for a corner credit.

Mr. Thureen indicated staff could go back and look at the records.

Motion by Piekarski Krech, second by Grannis, to table the Assessment Hearing to June 11, 2012 for City Project No. 2001-12, Concord Boulevard Reconstruction Phase II for parcel 2

Ayes: 5

Nays: 0 Motion carried.

B. CITY OF INVER GROVE HEIGHTS; Assessment Hearing for City Project No. 2011-09D, Urban Street Reconstruction (South Grove Area 6)

Mr. Kaldunski reviewed the project area. He summarized the work that was completed as part of the project including areas of mill and overlay, partial reconstruction, and full reconstruction. He stated a total of \$844,844.02 was proposed to be assessed, provided the Council adopted the assessment caps that were recommended by the appraisal analysis. The recommended assessment caps were \$4,000 for a single family home, \$6,000 for some parcels that had no curb and gutter, \$2,000 for multi-family homes, and \$1 per square foot for commercial properties. The proposed interest rate was 4.8% with a 10 year assessment term. He noted several commercial property owners requested a 15 year repayment term. He stated a number of objections have been received from property owners and should be formally accepted by Council.

Dmitriy Deyev, 6883 Craig Ct., stated he submitted a letter of objection because of a few issues that arose over the course of the project. He explained there were a significant number of trees and bushes removed during the project exposing his property to the field and the street. He stated a rapid infiltration system was built right next to the property line and a safety issue was created that was remediated through the installation of a fence along the border of the property. He explained he consulted 3 real estate agents and was advised he would incur a 5-10% reduction in property value because of the trees that were removed during the project.

Mayor Tourville stated the City does not use real estate agents for appraisals. He explained the City had no choice regarding the removal of trees; it was the airport's decision. He noted residents were notified about the tree removal. He questioned if any of the trees that were removed were on his property line.

Mr. Deyev stated the trees that he referred to were removed specifically for the installation of the rapid infiltration system.

Councilmember Klein asked what the value of the fence was.

Mr. Thureen estimated it was just under \$11,000.

Mr. Deyev stated he asked for the fence because there was a safety issue.

John Doffing, 4161 69th St. E., disputed the assessments for his parcels.

Mayor Tourville asked if consideration was given for the uses of the properties.

Mr. Kaldunski stated they were looked at with the potential if they were ever to be subdivided. He explained the assessment for the largest parcel is based on the equivalent of 27 single family homes. The other 1.62 acre parcel was based on the fact that the parcel could be split in half.

Councilmember Madden stated the larger area was farmed and he would not be comfortable assessing the property as the equivalent of 27 lots when there are crops growing on the property.

Mr. Kaldunski stated the parcel was part of the green acres program.

Mayor Tourville explained state statute allows deferral of the assessment for as long as it is a part of the green acres program.

Betty Doffing, 4161 69th St. E., stated they were assessed in 1993 for the road near their homestead to be paved with curb and gutter.

Mr. Kaldunski explained approximately \$6500 of the assessment was for the front footage along the street where the road was completely rebuilt. He stated a corner lot credit would apply to the mill and overlay and he would look into that.

Tom Wernet, Wernet Enterprises, questioned why his assessment was for \$21,000. He questioned if he was eligible for a corner lot credit and if a credit was applied for the \$7,700 storm sewer assessment he paid in 2005.

Mr. Kaldunski stated lot 34 was proposed to be assessed \$18,800 for street reconstruction in front of the parcel and \$2,630 for the mill and overlay portion. The property owner was not being assessed for the storm sewer work associated with this project. He noted he would have to look into whether or not he received a corner lot credit.

Mr. Thureen clarified that the corner credit policy applies to similar types of projects. If a property owner has a corner lot that abuts two streets that are being reconstructed, the corner credit applies to the longer side. He explained in this instance two different types of work were performed, reconstruction on one side and a mill and overlay on the other, so no corner credit would be applied.

Tom Zaspel, 7391 Concord Boulevard, stated the curbs were done as part of the County project and now are being asked to pay again for their replacement.

Mr. Kaldunski stated the County completed their project 3-4 years before the City project was envisioned. He explained the County filled in an existing ditch and installed curb along it to patch it back into the City street. He provided a history of the condition of the road over time.

Councilmember Madden stated he did not understand why new curbs were put in and then ripped out. He asked how that situation could be avoided in the future.

Mr. Kaldunski stated it is an issue of one project meeting up to another project. The County did their work as a patch and used the existing base that was there. The City did a complete reconstruction and needed to replace approximately 100 feet of curb along that particular stretch.

Councilmember Madden asked that work be coordinated in the future and asked if the property owner could be credited for the curb work.

Mayor Tourville stated everybody in the County paid for the curb, the individual property owner did not pay a separate County assessment for the curb.

Mr. Wernet asked that a 15 year assessment term be considered.

Jim Mueller, 7800 Boyd Avenue, stated when the street in front of his property was reconstructed he discussed the possibility of opening up his driveway. He explained after the curb was removed he was told by Planning staff that he could not have the driveway widened. He stated he was assessed for his frontage along the front, side and back of his property at \$1 per square foot and he felt the assessment was too high. He questioned if he received any credits for the watershed on his property and the project on 70th Street. He questioned how the interest rate would be applied to the total assessment.

Mr. Kaldunski stated staff is still looking for information on the watershed.

Mr. Kuntz explained the interest begins to accrue from the date the Council levies the assessment. If the assessment is paid in full within 30 days of levying no interest is charged. If the assessment is not paid in full within 30 days, the interest is payable annually in addition to the principal installment. The assessment can be paid off in any subsequent installment year, prior to November 15th, and the interest will be paid through the end of the year in which the final payment is made.

Bob Dahl, 6800 Craig Court, stated he did not appreciate his 25 year old curbs being torn out. He opined it was a waste of money. He stated during construction he never saw the contractor excavate to the depth that was specified in the plans.

Mr. Kaldunski stated he was just notified of the issue prior to the meeting and did not have an opportunity to investigate thoroughly. He noted he did speak to the City's inspectors and they assured him that they were on the site performing their project inspections at all times. They check the bottom of the subbase, the top of the sand, and the top of the rock after the gravel goes in.

Mayor Tourville reiterated the question is if the residents on the cul-de-sac actually received a full reconstruct.

Mr. Kaldunski responded to the best of his knowledge a full reconstruction was performed. He stated he would look into the issue further.

Councilmember Piekarski Krech asked that the Engineering Department verify that the specifications that were approved for the project were followed.

Mr. Kaldunski reiterated that he knows his inspectors checked the depth and verified that 24" of sand was laid.

Verna, 4036 69th St. E., questioned if an adjustment would be made for the removal of the cement curbs. She opined that there was nothing wrong with her curbs and they did not need to be replaced. She commented that her water bill is up because she has to keep watering the sod that was laid.

Mr. Kaldunski explained there is no separate curb assessment for those who had existing curb and gutter prior to the project because they previously paid for it.

Mr. Kuntz reviewed the senior citizen deferment policy.

Sharon Mueller, 7800 Boyd Ave. E., questioned how the City can justify a benefit to her property that is equivalent to her proposed assessment. She commented that the patrons of her business only use the street in the front of the building for access.

Mayor Tourville stated the streets can be used for access to her business, whether they are or not.

Ms. Mueller stated they are being assessed for streets along the back and sides of her property.

She reiterated her opinion that the cost of the improvements does not equally increase the value of her property. She asked the Council to reduce the cost of her assessment.

Mr. Kaldunski explained the City received a favorable bid for the project and the cost of the assessments was reduced as a result. The proposed assessment for the property on Concord would be \$20,369.32.

Alice Johnson, 6920 Delaney, questioned why her assessment was so high. She stated they are a corner lot and questioned if they received a credit.

Mr. Kaldunski explained a corner credit was given and the proposed assessment, with the recommended caps, would be \$4,000.

Mayor Tourville suggested the Council consider extending the repayment term for the commercial properties from 10 years to 15 years.

Councilmember Piekarski Krech questioned if the costs were a lot higher for this particular project because the per lot assessments seem higher than previous projects.

Mr. Kaldunski explained the costs came in below the engineer's estimate, but the additional costs came from the installation of concrete curb and gutter where previously there was none.

Mayor Tourville suggested that the owners of the green acres parcel may want to look into things from a financial and legal standpoint to ensure they are doing the right thing.

Councilmember Piekarski Krech questioned if the interest rate was established per policy.

Mr. Thureen responded in the affirmative.

Councilmember Piekarski Krech stated she would be willing to reduce the interest rate to 4% because the issue is the economy and they want to keep the businesses in operation.

Councilmember Piekarski Krech suggested extending the repayment term for those with a mill overlay assessment from 5 years to 10 years.

Mayor Tourville suggested that anybody assessed for part of a reconstruction or more than a mill and overlay would be able extend the repayment term to 10 years.

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

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech, second by Madden, to receive all correspondence that was submitted.

Ayes: 5

Nays: 0 Motion carried.

Mr. Lynch reminded the Council that the City's policy is to assess 70% to avoid having to continually increase debt service payments as part of the tax levy.

Motion by Klein, second by Piekarski Krech, to adopt Resolution No. 12-90 adopting the assessment roll for City Project No. 2011-09D, Urban Street Reconstruction (South Grove Area 6) with a 4% interest rate, a 15 year repayment term for commercial properties, and a 10 year repayment term for residents that were assessed for more than a mill and overlay

Ayes: 5

Nays: 0 Motion carried.

The City Council took a 5 minute break at 9:15 p.m.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. PAUL AND JULIE ENGLESON; Consider Resolution relating to a Variance to Install a Pool and Perimeter Walk 20 Feet from the Front Property Line whereas 30 Feet is required for property located at 6239 Boyer Path

Mr. Link reviewed the location of the property. He stated the item was tabled at the last City Council meeting. The applicants modified the proposal by reducing the size of the pool. The request is now for a 10 foot variance instead of an 18 foot variance. He explained the pool and perimeter walk would be located 20 feet from the property line whereas 30 feet is required.

Councilmember Klein asked if the applicant agreed to the conditions of the resolution.

Julie Engleson, 6239 Boyer Path, responded in the affirmative.

Councilmember Madden asked if there is a walk all the way around the pool.

Mrs. Engleson explained they wanted the additional space.

Councilmember Madden clarified that the profile of the corner of the pool still would not line up with the house.

Mrs. Engleson stated the only thing people would see is the privacy fence.

Councilmember Madden asked for a recommendation from staff regarding the modified request.

Mr. Link indicated staff still recommended denial of the request.

Motion by Klein, second by Piekarski Krech, to adopt Resolution No. 12-91 approving a Variance to install a pool and perimeter walk 20 feet from the front property line whereas 30 feet is required for property located at 6239 Boyer Path

Ayes: 4

Nays: 1 (Madden) Motion carried.

B. MIDWEST MOTORS, LLC; Consider a Resolution relating to a Variance to relocate a Sign that Exceeds Maximum Height Requirements for property located at 1037 Hwy 110

Mr. Link explained the maximum height of a sign cannot exceed be more than 10 feet taller than the building. The applicant is requesting to relocate an existing 42 foot sign to the north side of his property. An 8 foot variance would be needed because the building is 34 feet tall. He explained the request met all of other requirements and would not change the character of the neighborhood. Both Planning Staff and the Planning Commission recommended approval of the request.

Motion by Klein, second by Madden, to adopt Resolution No. 12-92 approving a Variance to relocate a sign that exceeds maximum height requirements for property located at 1037 Hwy 110

Ayes: 5

Nays: 0 Motion carried.

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

Mr. Link explained staff received direction to differentiate between community gardens and personal gardens. A definition of a personal garden was included in the revised version, along with a new definition of a community garden. The changes indicate that both community and personal gardens would be a permitted use in all zoning districts. Planning staff recommended approval of the third and final reading of the ordinance amendment.

Councilmember Piekarski Krech said she liked the changes that were made.

Councilmember Klein stated the City has a community garden at Salem Hills.

Motion by Madden, second by Piekarski Krech, to adopt Ordinance No. 1253 amending the City Code to allow Community Gardens as a Permitted Use in the Residential and Public/Institutional Zoning Districts

Ayes: 4

Nays: 1 (Klein) Motion carried.

8. MAYOR AND COUNCIL COMMENTS:

9. ADJOURN: Motion by Piekarski Krech, second by Grannis, to adjourn. The meeting was adjourned by a unanimous vote at 9:38 p.m.