

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, AUGUST 27, 2012 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, August 27, 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, Community Development Director Link, Finance Director Smith, Police Chief Stanger, Fire Chief Thill and Deputy Clerk Kennedy

3. PRESENTATIONS:

- A.** Proclamation Designating Tuesday, August 28, 2012 as Inver Wood Golf Course Day in the City of Inver Grove Heights

Mayor Tourville read a proclamation commemorating the 20th anniversary of Inver Wood Golf Course. He declared August 28, 2012 Inver Wood Golf Course Day in the City and discussed the events that would be held at the golf course to celebrate the anniversary.

4. CONSENT AGENDA:

Councilmember Piekarski Krech removed Item 4A(i) from the Consent Agenda.

Citizen Allan Cederberg requested that Item 4F be removed from the Consent Agenda.

Citizen Dian Piekarski requested that Item 4N be removed from the Consent Agenda.

- A.** ii) Minutes – August 13, 2012 Council Work Session
iii) Minutes – August 13, 2012 Regular Council Meeting
- B. Resolution No. 12-131** Approving Disbursements for Period Ending August 22, 2012
- C.** Approve Various Americans with Disabilities Policies
- D.** Change Order No. 1 for City Project No. 2012-09D, Urban Street Reconstruction, 65th Street Neighborhood and Cahill Court
- E.** Pay Voucher No. 3 fro City Project No. 2012-09D, Urban Street Reconstruction, 65th Street Neighborhood and Cahill Court
- G. Resolution No. 12-133** Calling for Hearing on Proposed Assessments and **Resolution No. 12-134** Declaring Costs to be Assessed and Ordering Preparation of Proposed Assessments for City Project No. 2009-11, Concord Boulevard Improvement – Phase 3 from 65th Street East to the Corporate Boundary with the City of South St. Paul
- H.** Approve Affidavit Concerning Real Property Contaminated with Hazardous Substances at Heritage Village Park
- I.** Approve Purchase of Spinning Bikes for Veterans Memorial Community Center
- J.** Award Contract for Installation of Door Access Control System at each Fire Station to Low Voltage Contractors
- K. Resolution No. 12-135** Authorizing Participation in Auto Theft Prevention Grant with the State of Minnesota
- L.** Approve Letter to MPCA regarding Proposed Waste Disposal Restrictions
- M.** Personnel Actions

Motion by Madden, second by Klein, to approve the Consent Agenda**Ayes: 5****Nays: 0 Motion carried.****A. (i) Minutes – July 23, 2012 Council Work Session**

Councilmember Piekarski Krech stated she was unable to attend the work session on July 23rd.

Motion by Madden, second by Grannis, to approve the Minutes of the July 23, 2012 Council Work Session**Ayes: 4****Nays: 0****Abstain: 1 (Piekarski Krech) Motion carried.****F. Resolution Accepting Amendment No. 4 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 Court**

Allan Cederberg, 1162 82nd St. E., stated the funds should be designated before the item is voted on so everyone knows exactly where the money is coming from. He commented that the Engineering department should be focused on field work for projects and the finance department should be handling the budgets for each project.

Mayor Tourville stated every department has a budget that the head of the department is responsible for managing throughout the year. He explained engineering is responsible for their projects and engineering staff are better equipped to handle the budget throughout the course of a project because they are directly involved in the project from start to finish. He noted the current process has worked very well.

Mr. Thureen stated the engineers are in the best position to determine reasonable costs throughout the course of a project.

Motion by Klein, second by Madden, to adopt Resolution No. 12-132 accepting Amendment No. 4 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 Court**Ayes: 5****Nays: 0 Motion carried.****N. Approve Limited Hunting of Canada Geese within the City**

Dian Piekarski, 7609 Babcock Trail, asked for more details about the program. She questioned if anyone had ever been injured and if there was a protocol for citizen notification.

Chief Stanger stated the program has been in place for close to ten (10) years and it is brought to the City Council for approval on an annual basis. He explained detailed information about the program, including a map of areas that are allowed to be hunted, can be found on the City's website. He stated an officer is sent to inspect each site to ensure that it is safe for hunting and their report is forwarded to his office for approval or denial of the permit. He noted some sites do not get approved because of safety concerns. He stated notification of the program is done annually at a City Council meeting and to the best of his knowledge nobody has ever been injured. He clarified there is no separate notification for each approved site. He reiterated that the map, posted on the City's website, shows the areas that are proposed to allow hunting provided the sites are deemed to be safe and approved by his office.

Motion by Madden, second by Grannis, to approve limited hunting of Canada Geese within the City**Ayes: 5****Nays: 0 Motion carried.**

5. PUBLIC COMMENT:

Allan Cederberg, 1162 82nd St. E., stated Alberta Ave. runs parallel with South Robert Trail and is part pavement and part gravel. He questioned if Alberta Avenue was a public or private road because the neighbors were not sure.

Mr. Thureen explained the issue would take a little bit of research because the City's records show it as being a private road, but since he has been with the City he knows street maintenance has been involved with the maintenance of the road. He stated if the city maintains a street for a certain number of continuous years the road may be designated as "public".

Mayor Tourville asked Mr. Thureen to research the questions and work with the City Attorney to make a determination as to whether the road is public or private. He directed staff to provide the City Council and Mr. Cederberg with the final answer once a determination has been made.

6. PUBLIC HEARINGS:**A. CITY OF INVER GROVE HEIGHTS; Consider Application of St. Patrick's Catholic Church for a Temporary On-Sale Intoxicating Liquor License**

Ms. Kennedy explained St. Patrick's applied for a temporary liquor license to serve alcohol in conjunction with events occurring during the Church's annual fall festival.

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

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville questioned if the liability insurance certificate was provided to the City.

Ms. Kennedy responded in the affirmative.

Motion by Madden, second by Klein, to approve application of St. Patrick's Catholic Church for a Temporary On-Sale Intoxicating Liquor License

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:**COMMUNITY DEVELOPMENT:****A. WILLIAM KRECH; Consider Resolution relating to a Vacation of a portion of a Drainage and Utility Easement for Property Located at 10118 Adam Ave.**

Mr. Link explained the applicant proposed an addition onto his house that extends into a City storm water easement. He stated the applicant has requested that a portion of the easement, on the east side, be vacated to allow for the addition. In exchange, the applicant would add a stretch of property to the easement on the north side to make up for the loss. He noted the Engineering department supported the request provided the applicant deeds the additional easement and enters into agreements with the City regarding custom grading landowner improvements, and the drainage easement itself. Planning staff and the Planning Commission recommended approval of the request.

Councilmember Klein asked if the applicant agreed with the conditions of approval.

William Krech, 10118 Adam Ave., responded in the affirmative.

Motion by Klein, second by Madden, to adopt Resolution No. 12-136 relating to a Vacation of a portion of a Drainage and Utility Easement for property located at 10118 Adam Ave.

Ayes: 5

Nays: 0 Motion carried.

B. VANCE GRANNIS, JR.; Consider the Third Reading of an Ordinance Amendment to allow a DNR Gun Safety Program with Outdoor Shooting

Mr. Lynch explained the reason they are able to do this is because the City Council has adopted a set of policies and practices for meeting management, and as a part of that they operate according to Robert's Rules of Order. Procedurally the Council can ask for reconsideration on a vote, even if it ended in a tie. Councilmember Klein asked for reconsideration of the vote on the allowance of a DNR Gun Safety Program with Outdoor Shooting as a permitted use. He noted additional information was provided by Mr. Grannis which proposed additional language and reconfigured the site to change the direction of the shooting.

Mr. Kuntz stated at the meeting on August 13, 2012 there was a motion by Councilmember Madden, seconded by Councilmember Piekarski Krech, to approve the third reading of an ordinance amendment to allow a DNR Gun Safety Program with Outdoor Shooting as a permitted use with the various conditions that were included with the ordinance. The motion incorporated a couple of changes which the Council discussed during the meeting. One of the changes was the addition of a paragraph requiring a certificate of coverage provided by the State to demonstrate that the program was covered in terms of liability. The other change was the substitution of CCI quiet .22 caliber rifle as the form of ammunition. He stated the motion subsequently failed due to a lack of a majority with the vote of two (2) in favor, two (2) opposed, and one abstention. He clarified that for the meeting on August 27th the Council was provided with the ordinance as it had been amended during the course of the meeting on August 13th.

Mr. Kuntz explained the City Code contains a provision under section 1-5-2 that a motion to reconsider a matter which has already been voted upon can be made at the same meeting at which the action was taken or at the next regular City Council meeting. A motion to reconsider could be made by a person on the prevailing side of the motion and can be seconded by any member of the Council. If a motion to reconsider is seconded and approved, the motion on the floor is then the motion from August 13th to approve the program as a permitted use.

Motion by Klein, second by Madden, to reconsider motion to approve the third reading of an Ordinance Amendment to allow a DNR Gun Safety Program with Outdoor Shooting as a permitted use with the added conditions.

Ayes: 3 (Klein, Piekarski Krech, Madden)

Nays: 1 (Tourville)

Abstain: 1 (Grannis) Motion carried.

Mr. Kuntz stated a handout was provided by the applicant that proposed the addition of one sentence to paragraph D that reads "the location of the target and backstop shall be such that the direction of fire shall only be toward land for a distance of at least ¼ mile, owned by or under the same control as the land where the target and backstop are located".

Councilmember Klein questioned if that meant the direction of fire would be towards land owned entirely by Mr. Grannis.

Mr. Kuntz explained the additional sentence meant when the shooter is lined up with the target there has to be, in back of the target, at least a ¼ mile distance to the boundary of the property line controlled by the same person who controls the land where the target and backstop are located. He stated the applicant provided a map to demonstrate the reconfigured orientation of the site.

Mayor Tourville noted the applicant's letter also indicated if the reconfiguration were approved the Lindberg family would no longer object to the ordinance to allow the DNR Gun Safety program.

Motion by Klein, second by Madden, to receive correspondence from Vance Grannis, Jr. and Dale Suckstorff

Ayes: 4

Nays: 0

Abstain: 1 (Grannis) Motion carried.

Councilmember Madden confirmed that the motion to approve the ordinance amendment to allow the DNR Gun Safety program as a permitted use was still on the floor.

Mr. Kuntz reiterated that the motion on the floor was the original motion from the August 13th meeting made by Councilmember Madden and seconded by Councilmember Piekarski Krech to approve the ordinance amendment to allow the DNR Gun Safety Program as a permitted use subject to conditions A-I.

He explained the applicant has asked the Council to amend that motion to include the sentence that was proposed to be added to condition D.

Motion by Madden, second by Klein, to amend the motion to approve the Third Reading of the Ordinance Amendment to allow the DNR Gun Safety Training Program with Outdoor Shooting as a Permitted Use subject to Conditions A-I with the addition of the proposed language to Condition D as submitted by the applicant.

Mayor Tourville stated it was suggested at the last meeting that a condition be amended to require all ammunition to be removed.

Mr. Kuntz stated that a provision was added to require that at the end of each session the ammunition contained in the target and backstop be removed. He questioned if the intent was to say that ammunition in the target, backstop and all other ammunition used during the exercise shall be removed at the end of each session.

Mayor Tourville stated that was his intent.

Mr. Kuntz asked the Council if that change would be viewed as a friendly amendment.

The Council responded in the affirmative.

Mayor Tourville suggested that Condition I also be amended to have the insurance certificate submitted to the City Clerk rather than the Chief of Police because all other certificates of insurance are retained by the clerk.

Ayes: 4

Nays: 0

Abstain: 1 (Grannis) Motion carried.

Kirk Lindberg, 8799 Audubon Road, stated his family owns the 100 plus acres immediately north and adjacent to the Grannis property. He opined that this issue was tearing apart families and long standing friendships. He stated he shared the concerns raised by his family and neighbors. He explained after further discussion with Mr. Grannis they worked together to draft a new map was proposed to reconfigure the direction of the shooting while still meeting all of the proposed requirements of the ordinance. In addition, Mr. Grannis agreed to a site visit with the DNR, the Chief of Police, and himself to establish GPS coordinates and permanent markers of the exact location of the point of firing and the location of the targets. He stated although this addressed the major concerns of his family the neighbors still felt some there concerns were not addressed, particularly with respect to notification of the dates and times of the classes. He explained the DNR agreed to purchase signs to be placed on trails on the days on which classes would be held. He noted he also requested that the DNR set up an email notification that residents could sign up for to receive when classes are scheduled, and he was told it would be looked into further. He discussed concerns that a full fledge gun range would be instituted over time and stated Mr. Grannis indicated that he had not and would not ask for a full gun range on the property.

Mr. Lindberg explained while he would still rather not see the gun safety course in his neighborhood, he did want to see Mr. Grannis succeed in his vision for the Darvan Acres nature center and outdoor skills education program. He noted Mr. Grannis believes he needs the gun safety course to improve his chances of securing the funding needed for his conservation easement. He explained he would no longer oppose the application for a DNR Gun Safety Training Program on the Grannis property because he believed Mr. Grannis listened to the concerns that were raised and made significant accommodations to work with the neighbors to alleviate their concerns. He noted to show that his family really does support

Mr. Grannis' vision he and his father secured \$25,000 in anonymous pledges to be put towards a future indoor gun range on the Grannis property.

Kristine Zellmer, 8988 Aralia Ct., opined that Mr. Grannis should be responsible for notifying residents. She stated signs being posted on the day of the class was not good enough because the neighbors need to know in advance when the classes are occurring. She commented that it shouldn't be hard for Mr. Grannis to send an email for something that is happening six (6) times a year.

Mayor Tourville stated if the classes are scheduled weeks to months in advance the applicant would know when the classes are going to be held on his property. He noted there is so much lead time in terms of scheduling the classes that it seems reasonable that some type of notification system could be set up. He stated if the City needs to help figure it out, they would. He asked for DNR cooperation in terms of letting someone know when classes are scheduled.

Lt. Gutierrez, DNR Safety Training and Education, stated he did not have the authority to promise that the DNR would implement a notification system. He explained the classes are posted on the DNR website after the volunteer firearm safety instructors select the dates. He noted it is the instructors' responsibility to check the availability of the location for the class.

Mr. Lindberg stated he spoke with Donna Schultz at the DNR about the possibility of setting up an email group to notify people when a class is scheduled and posted on the DNR website. He explained that Ms. Schultz indicated it seemed to be a reasonable request but that she would have to check with her superiors to see if it was feasible.

Dian Piekarski, 7609 Babcock Trail, stated she was confused because the Council just approved a program for the hunting of geese that would occur eight (8) days out of the year and no separate notification was required other than what was posted on the City's website. She opined that residents are responsible for obtaining the information if they are interested in when & where the hunting is occurring. She stated she failed to see why the DNR program was of a greater concern than the goose hunt because residents would likely be much more aware of someone hunting on or near their property. She commended both Lindberg and Grannis families for coming up with a compromise.

Mayor Tourville stated with respect to the goose hunt the neighbors are aware of when it occurs and have not requested any additional notification. He noted the hunting often occurs on their own property because the resident is the one hunting or they have given written permission for someone else to hunt on their property. He explained in this instance the neighbors are asking for notification because they use the trails regularly.

Ms. Piekarski stated most people with acreage find people on their property without permission.

Damon Roth, 8418 College Trail, opposed the proposed ordinance amendment. He stated he belongs to several gun clubs and went through the safety training program himself. He explained he understood the DNR was having trouble finding locations for the program and suggested that they find locations that are not in residential areas.

Lori Lindberg-Schaffer, 8943 Aralia Ct., questioned how the neighbors will know the dates and times of the classes. She stated they own and pay taxes for their property and feel they should be able to go out and enjoy it. She questioned where the program participants get the guns they will use.

Mayor Tourville stated the DNR provides the guns that are used for the firing portion of the program. Steve Sandberg, 11802 Akron Ave., explained when they do the field training the kids can use their own unloaded firearms. He stated are only allowed to use the guns provided by the instructors for the firing portion of the training.

Dave Moline, 9260 Arnold Ave., reiterated that communication with the neighbors was an important issue. He suggested that Council include as a condition of approval that there be notification to the neighbors of when the classes would occur.

Councilmember Klein asked Lt. Gutierrez to review the firing protocol for the program.

Lt. Gutierrez reviewed the instruction manual that is provided by the DNR to the instructors and discussed the procedure that is followed for the firing component of the program.

Councilmember Klein asked if there had ever been an accident in the 50 years that the DNR has sponsored the program.

Lt. Gutierrez responded in the negative. He clarified that the DNR was willing to put up barricade signs on the two main trails that lead to the Grannis property from the Lindberg property. He explained there are over 5,000 safety instructors in the State of Minnesota and in his opinion it is not feasible that the sole employee responsible for posting state-wide program information on the DNR website to remember that a separate email is required for the courses at Darvan Acres. He noted the property is private and will essentially be closed on the days when the program is held.

Councilmember Klein stated what Mr. Grannis wants to do on his private property is his business.

Mayor Tourville stated someone will have to be responsible for coordinating the notification process.

Councilmember Klein suggested Mr. Grannis may be willing to send out an email when he is notified that a class has been scheduled.

Dave Schaffer, 8943 Aralia Court, clarified it is the volunteer DNR instructors that schedule the classes.

Councilmember Piekarski Krech stated they are volunteers who are trained to be instructors by the DNR and conduct the training programs under the auspices of the DNR.

Mr. Cederberg expressed concern with the use of lead ammunition. He opined that the issue should be discussed by the Environmental Commission prior to approval. He asked what commercial liability insurance was.

Mr. Kuntz explained commercial liability is the type of coverage provided by the DNR.

Maria Carlson, 9250 Courthouse Boulevard Court, stated she belongs to a gun club and there are many people watching the students during the course. She opined that people that send their kids to the program want to be responsible parents. She stated the program is very safe and very controlled.

Ms. Zellmer questioned what the process would be for stopping the program if there are problems. She opined that some sort of process should be documented to stop the program other than leaving it up to the discretion of the Chief of Police.

Councilmember Piekarski Krech stated she has full confidence that the Chief of Police is going to watch out for the safety of the community. She explained if there are complaints that there are safety issues the Chief will take care of the problem.

Ms. Zellmer asked what would happen if it was a nuisance issue, not a safety issue.

Mayor Tourville stated the neighborhood could come to the City Council to express their concerns and the Council would determine how to best address the concerns at that time.

Barry Leafman, 1900 96th St. E., asked how much lead time instructors were required to give when scheduling courses.

Mr. Sandberg stated as far as he knows they can set it up anytime they want. He explained the head instructor notifies the DNR generally 6 weeks to 2 months in advance and then it is posted on the website.

Mayor Tourville stated even though he was going to vote against the ordinance amendment he would still help in any way possible to achieve Mr. Grannis' vision for Darvan Acres. He explained he simply disagreed with the gun safety program because he did not feel that it fit with the overall vision for the property. He stated he believes there are other locations within the City that the DNR could use for the program.

Motion by Madden, second by Piekarski Krech, to adopt Ordinance 1256 approving a DNR Gun Safety Program with Outdoor Shooting as a Permitted Use subject to Conditions A-I as previously amended.

Ayes: 3 (Klein, Madden, Piekarski Krech)

Nays: 1 (Tourville)

Abstain: 1 (Grannis) Motion carried.

C. BITUMINOUS ROADWAYS; Consider the following resolutions for property located at 11201 Rich Valley Boulevard (*the applicant requests the item be tabled until further notice*):

- i) An Ordinance Amendment for the renewal of a five year sand and gravel overlay permit
- ii) A Conditional Use Permit Amendment for the mining and processing of sand and gravel and to operate an asphalt plant and contractors yard with open storage

Mr. Lynch said the city would like to get a neighborhood meeting on the bituminous roadways so that will be tabled.

No action was taken on this item.

FINANCE:

D. CITY OF INVER GROVE HEIGHTS; Approve the 2012 Budget for the Storm Water Fund

Ms. Smith stated the Council was asked to approve a budget for the 2012 Storm Water Utility Fund. She explained the budget was not previously approved due to the timing of the establishment of the funds. She noted the City had begun billing for the fees and the revenues were starting to come into the fund.

Councilmember Klein clarified staff had already started billing for the storm water utility fee.

Ms. Smith responded in the affirmative.

Councilmember Klein asked if the first billing had gone out in July.

Ms. Smith responded in the affirmative.

Councilmember Klein questioned if any phone calls were received after the first billing.

Ms. Smith stated a few calls were received in regards to what the fees entailed and requests for more information about the program.

Councilmember Piekarski Krech questioned if the whole program had been implemented.

Ms. Smith stated billing had begun, but not all customers were billed in July.

Councilmember Piekarski Krech stated she would have liked to see the fee schedule again and what was actually being billed because she did not remember the definitive numbers.

Councilmember Klein questioned who had been billed.

Mr. Thureen explained the first billing cycle covered the multi-family residential properties and few others. He noted staff had considerable discussion with that group because they were the first group to be billed and they were unique in that they were given options for how they wanted to be billed. He stated in the very near future in-depth fee information would be posted on the City's website. He explained the Council did adopt a fee schedule that was used to generate the first billing cycle.

Motion by Klein, second by Grannis, to adopt Resolution No. 12-137 approving the 2012 Budget for the Storm Water Fund

Ayes: 5

Nays: 0 Motion carried.

ADMINISTRATION:**E. CITY OF INVER GROVE HEIGHTS;** Consider First Reading of an Ordinance to Amend City Code, Title 2, Chapter 5, Aircraft Noise Abatement Commission

Mayor Tourville stated this change was suggested to the Council by members of the Aircraft Noise Abatement Commission at the August 13th study session and the Council were generally in favor of the change.

Councilmember Madden stated he would support the new operation, but wanted it to be noted that he was not in favor of the new approach that was discussed at the August 13th study session. He opined that no progress had been made in the last 30 years primarily because the City Council, both past and present, did not take enough action to get viable results at the airport. He stated he hoped the new approach would work, but was skeptical that it would produce a different result.

Councilmember Piekarski Krech stated short of putting a lot of money into it, the only course of action left would be to work through the elected officials because it is a federal issue. She opined that the elected officials had to start working for the City's interests a little bit more.

Mayor Tourville stated everyone realizes that the City is part of a group that has no power because of the difficulties with the federal regulations. He gave the group credit for wanting to continue moving forward.

Councilmember Madden agreed that the group should get credit for continuing their efforts. He reiterated that he would support the commission in any way possible.

Councilmember Piekarski Krech suggested adopting the ordinance in one reading.

Motion by Klein, second by Piekarski Krech, to adopt Ordinance No. 1255 amending City Code Title 2, Chapter 5, Aircraft Noise Abatement Commission and to adopt the ordinance in one reading.

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

The Council encouraged residents to participate in Inver Grove Heights Days activities.

9. ADJOURN: Motion by Madden, second by Piekarski Krech, to adjourn. The meeting was adjourned by a unanimous vote at 9:00 p.m.