

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, SEPTEMBER 10, 2012 - 8150 BARBARA AVENUE**

**CALL TO ORDER/ROLL CALL** The City Council of Inver Grove Heights met in regular session on Monday, September 10, 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 and Deputy Clerk Kennedy

**3. PRESENTATIONS:**

Mayor Tourville recognized the passing of former mayor Eugene Atkins.

**4. CONSENT AGENDA:**

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

Mayor Tourville removed Item 4F from the Consent Agenda.

Mr. Thureen removed Item 4G from the Consent Agenda.

**B. Resolution No. 12-138** Approving Disbursements for Period Ending September 5, 2012

**C.** Pay Voucher No. 2 for City Project No. 2010-41, T.H. 3 Turn Lanes at Autumn Way

**D.** Pay Voucher No. 1 for City Project No. 2012-09D, Urban Street Reconstruction 65<sup>th</sup> St. Neighborhood & Cahill Ct. for Borden Way Backyard Storm Sewer Improvements

**E. Resolution No. 12-139** Accepting Agreement related to Landowner Improvements within City Easement on Lot 12, Block 5, Woodland Preserve (11684 Aileron Court)

**H. Resolution No. 12-142** Authorizing Submittal of a Clean Water Fund Application for the Construction of City Project No. 2011-02, Concord Boulevard Storm Water Management Basin at 78<sup>th</sup> Street

**I.** Approve Contractor for Bituminous Work at Skyview Park

**J.** Appoint Council members to Represent City in Mediation

**K.** Approve Company Fire Inspection Program

**L.** Adopt Fire Relief Association Five (5) Year Plan

**M. Resolution No. 12-143** Approving Multi-Agency Law Enforcement Joint Powers Agreement with the Minnesota Bureau of Criminal Apprehension for participation in Minnesota Internet Crimes against Children Task Force

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

**Ayes: 5**

**Nays: 0      Motion carried.**

**A.** (i) Minutes – August 27, 2012 Council Work Session

Mayor Tourville stated he did not attend the work session on August 27<sup>th</sup> because he was at the Best Foundation Golf Tournament.

**Motion by Klein, second by Madden, to approve the Minutes of the August 27, 2012 Council Work Session**

**Ayes: 4**

**Nays: 0**

**Abstain: 1 (Tourville)      Motion carried.**

## ii) Minutes – August 27, 2012 Regular Council Meeting

Councilmember Piekarski Krech asked that her name be added under the roll call.

Allan Cederberg stated he was unhappy with the procedure that was followed for Item 7B at the August 27<sup>th</sup> meeting. He contended that the Council did not follow the procedures set forth in City Code that require the meetings to be run according to *Robert's Rules of Order*.

Councilmember Piekarski Krech explained that the proper procedure was followed. She told Mr. Cederberg his interpretation of the rule was incorrect because the original motion to approve at the August 13<sup>th</sup> Council meeting failed because it did not receive a simple majority of votes to pass. The vote was two (2) in favor, two (2) opposed, and one (1) abstention. She stated because the original motion failed, a motion to reconsider could only be made by those who were on the prevailing side or those who voted against the original motion to approve, Mayor Tourville and Councilmember Klein.

**Motion by Klein, second by Madden, to approve the Minutes of the August 27, 2012 Regular Council Meeting with the specified change**

**Ayes: 5**

**Nays: 0      Motion carried.**

**F. Resolution Accepting Bid and Awarding Contract for 2012 Storm Water Facility Maintenance Program City Project No. 2012-15, Sediment Removal from Basin at 79<sup>th</sup> Street and Blanchard Way**

Mr. Thureen explained staff recommended awarding the contract to the second low bidder, Dahn Construction. He stated the recommendation was made based on feedback received about the low bidder's work on past projects with other governmental agencies. Staff investigated the contractor's work and business practices to ensure that the company was a responsible bidder.

Councilmember Klein asked the City Attorney if he concurred with the findings of staff's investigation.

Mr. Kuntz responded in the affirmative. He explained staff's findings were memorialized in the resolution.

**Motion by Klein, second by Madden, to adopt Resolution No. 12-140 accepting bid and awarding contract for 2012 Storm Water Facility Maintenance Program – City Project No. 2012-15, Sediment Removal from Basin at 79<sup>th</sup> Street and Blanchard Way**

**Ayes: 5**

**Nays: 0      Motion carried.**

**G. Resolution Approving a MPCA Environmental Assistance Grant Agreement for City Project No. 2012-15, Sediment Removal Project, Storm Water Management Basin at 79<sup>th</sup> Street and Blanchard Way**

Mr. Thureen stated he removed this item simply because it required approval of Item 4F.

**Motion by Madden, second by Klein, to adopt Resolution No. 12-141 approving a MPCA Environmental Assistance Grant Agreement for City Project No. 2012-15, Sediment Removal Project, Storm Water Management Basin at 79<sup>th</sup> Street and Blanchard Way**

**Ayes: 5**

**Nays: 0      Motion carried.**

**5. PUBLIC COMMENT:****6. PUBLIC HEARINGS:****7. REGULAR AGENDA:****A. CITY OF INVER GROVE HEIGHTS; Consider Third Reading of an Ordinance Amending Inver Grove Heights City Code Title 5, Chapter 6, Section 1(B) regarding Use of Firearms**

Mr. Kuntz stated this was a companion ordinance to the zoning ordinance that was adopted at the August 27<sup>th</sup> meeting related to the DNR Gun Safety Training Program to be held on the Grannis property. He

explained the companion ordinance addresses the use of firearms in the City and mirrors the conditions and terms set forth in the zoning ordinance. He noted the ordinance amendment specifically referenced the CCI Quiet .22 caliber long rifle ammunition.

Councilmember Piekarski Krech clarified that the reference to lead ammunition was also addressed.

Mr. Kuntz responded in the affirmative.

Mary T’Kach, 7848 Babcock Trail, asked what the process is going to be to ensure all the ammunition is removed from the site.

Councilmember Piekarski Krech stated they have backstops to trap the ammunition.

Mayor Tourville explained the ordinance requires that all ammunition be picked up after each session of the program.

Ms. T’Kach questioned who would be liable if contamination was discovered in the future.

Mayor Tourville explained the property owner would be responsible.

**Motion by Klein, second by Madden, to adopt Ordinance No. 1257 amending Inver Grove Heights City Code Title 5, Chapter 6, Section 1(B) regarding Use of Firearms**

**Ayes: 5**

**Nays: 0      Motion carried.**

**COMMUNITY DEVELOPMENT:**

**B. LESLIE SCHWEGEL;** Consider Resolution relating to a Variance to allow Construction of a Six (6) Foot High Solid Wood Fence 22 Feet from the Front Property Line for property located at 7807 Cooper Avenue

Mr. Link stated the applicant’s request involved the construction of a six (6) foot high fence, 22 feet from the property line that would encroach into the front yard on a corner lot. He explained City Code requires fences in the first 30 feet back from the property line to be no higher than 42 inches and to be at least 75% open. This requirement was implemented to help with traffic visibility at corner intersections and to keep open views of house fronts for emergency vehicle access. He stated although the fence would be located on a “corner side” yard, it would encroach into the front yard of the residence to the east. He noted the fence would not impede traffic visibility from the street corner. He explained both Planning staff and the Planning Commission recommended denial of the variance because it did not meet the standards of a “practical difficulty”. The situation is not unique because this type of corner lot arrangement exists in many areas of the City and there is practical use of the property without the need for a fence variance.

Leslie Schwegel, 7807 Cooper Avenue, stated they were never aware that they technically had two (2) front yards. They removed their old, overgrown evergreen trees to improve the aesthetic of their property and never thought putting a fence in would be an issue. They wanted to maintain the privacy of their property. It was noted that the immediate neighbors were all in favor of the fence being installed.

Councilmember Madden supported the request and commented that the applicants could have installed the fence without anyone even realizing it was there. He stated he believes in going by the spirit of the law rather than the letter of the law in cases where the request makes sense and fits in with the rest of the neighborhood. He noted many of the homes in the neighborhood have similar fences, it would not affect any sight lines and the neighbors were not opposed to having the fence built in the proposed location.

Robert Boarman, a neighbor to the south of the applicant, spoke in favor of the variance. He explained the fence would help block the traffic noise from 78<sup>th</sup> as well as the view of the cars from the backyard. He stated the hardship was the location and orientation of the property and the heavy traffic on 78<sup>th</sup> Street.

Councilmember Piekarski Krech questioned how the criteria for a variance could be met.

Mayor Tourville stated the practical difficulty was that similar properties chose to have their driveways on 78<sup>th</sup> Street which has much heavier traffic than Cooper Avenue. He added that the fence would act as a

buffer for the property.

Councilmember Madden stated the fence would also improve the security of the property and would provide screening for the applicant's yard.

**Motion by Klein, second by Madden, to adopt Resolution No. 12-144 relating to a Variance to allow Construction of a Six (6) Foot High Solid Wood Fence 22 Feet from the Front Property Line for property located at 7807 Cooper Avenue**

**Ayes: 5**

**Nays: 0      Motion carried.**

**C. CLARK ROAD PROPERTIES;** Consider Resolution relating to an Interim Use Permit to Allow a Mini-Storage Facility with Metal Portable Shipping Containers for property located on the West Side of Clark Road across from 11305 Clark Road

Mr. Link stated the applicant proposed the construction of a mini-storage facility as an interim use. On the front part of the property there would be metal storage containers for rental use, and on the back of the property there would be storage for boats, trailers, campers, and RVs. He noted the proposed use was similar to other uses in the area. He explained the interim use would be for a period of 10 years. Both Planning staff and the Planning Commission recommended approval of the request. The Planning Commission added a condition that would prohibit "for sale" signs.

Mayor Tourville questioned if the hours of operation would be restricted.

Mr. Link stated the applicant proposed hours of operation from 6:00 a.m. to 8:00 p.m. He noted no conditions related to the hours of operation were imposed on the other businesses in the area with similar uses.

**Motion by Piekarski Krech, second by Klein, to adopt Resolution No. 12-145 relating to an Interim Use Permit to Allow a Mini-Storage Facility with Metal Portable Shipping Containers for property located on the West Side of Clark Road across from 11305 Clark Road**

**Ayes: 5**

**Nays: 0      Motion carried.**

**D. 160 INVESTMENTS, LLC (ARGENTA HILLS 5<sup>th</sup>);** Consider following resolutions for property located on the north side of Amana Trail across from Target:

- i) Comprehensive Plan Amendment to change the land use designation from MDR, Medium Density Residential to LMDR, Low Medium Density Residential
- ii) Rezoning of the property from A, Agricultural to R-1C/Planned Unit Development
- iii) Planned Unit Development Amendment to the Argenta Hills PUD to change the original 44 unit townhouse development to a 39 unit single family development
- iv) Preliminary and Final Plat and Preliminary and Final Planned Unit Development for a 39 unit detached single family development

Mr. Link explained the need for the Comprehensive Plan Amendment is the result of City actions, not because of any actions taken by the developer. He stated when the City first approved the development in 2007, the developer proposed an overall density in excess of five (5) units per acre. The Comprehensive Plan at that time stated that the density of five (5) units per acre fell into the classification of Medium Density Residential. Since 2007 the applicant has maintained the original proposed density, but the City amended the Comprehensive Plan in 2008 to create a new category called Low Medium Density Residential. The new category that was created included the density of five (5) to six (6) units per acre. He reiterated that the need for the Comprehensive Plan Amendment was caused by the City's creation of the new land use designation. He explained the Planned Unit Development would be changed from townhome units to single family units, and as a result the number of units would be slightly reduced from 44 units to 39 units. He noted the developer agreed to pay utility connection fees based on the

original proposal of 44 units to ensure that the City would not lose the connection fees that were originally planned for. The open space would remain virtually unchanged, and the developer had enough to essentially double the minimum requirements set forth by ordinance. He explained two (2) additional segments of trail would be constructed, the first along the backside and west of the development and the second on the east side, to connect the trails that are currently in place to the north. Both Planning staff and the Planning Commission recommended approval of the requests. The Planning Commission added a condition to clarify those property owners who place items in their backyards – such as sheds, playground equipment, or gardens - cannot allow those items to encroach into the designated open space areas.

Jack Fick, 160 Investments, explained it has been their experience that with the downturn of the economy that they have lost a large share of the townhome market as well as the pricing that went along with it. He stated they would like to change their proposed layout to a single family development, with a slight reduction in the number of units. He noted they felt they would be able to sell a better product with greater expectancy.

Councilmember Klein stated he was amazed by how well the homes in the development were selling.

Mr. Fick agreed that the single family homes that were constructed have sold very well. He stated the units that would be built in this phase of the development would be slightly smaller than those that were built in the northeast corner of the development. He reviewed some of the two-story designs that would be available to home buyers.

Mary T’Kach questioned if any of the homes in the development would be set aside for affordable housing.

Mr. Fick stated none of the homes in this portion of the development would be designated as affordable housing.

Ms. T’Kach opined that it was an oversight on the part of the City to not forward the issue to the Housing Committee for discussion or to have a policy in place that could be followed when decisions of this nature are being made.

Councilmember Madden stated he was happy to see development occurring in the City and noted that they are very aware of the fact that affordable housing is needed and they have undertaken such projects in other areas of the City.

Allan Cederberg, 1162 82<sup>nd</sup> St. E., questioned if the storm water was contained within the development.

Mr. Thureen explained there was an overall storm water plan in place for both the commercial and residential development in Argenta Hills. He stated this development would comply with that plan and meet the standards established for the Northwest Area.

Mr. Cederberg questioned if the Fire Department approved the layout of the development.

Mr. Link explained the Fire Department, along with a number of other agencies, have reviewed the plans for the development.

Mr. Cederberg stated it was his understanding that there was supposed to be a certain percentage of affordable housing contained in the Northwest Area.

Mayor Tourville stated future projects may include affordable housing, but it would be at the discretion of the developer for each individual project. He explained they did not make it a requirement that every development project must include affordable housing. He reiterated that there will be other developers working in the area in the future.

Councilmember Madden stated developers have to be able to make a profit and it would not make sense to force developers to include affordable housing in every project in the City. He opined that it depends on the development and the location in the City and affordable housing does not fit in every area of the City because of the factors that affect the cost of the land and the development.

Mr. Link reviewed the initiatives that have been taken by the City to implement affordable housing in

multiple locations throughout the City.

Ms. T’Kach opined that it makes more sense to integrate affordable housing throughout the community versus specific developments that are not mixed use products.

**Motion by Klein, second by Madden, to adopt Resolution No. 12-146 approving a Comprehensive Plan Amendment to Change the Land Use Designation from MDR, Medium Density Residential to LMDR, Low Medium Density Residential; Ordinance No. 1258 Rezoning the Property from A, Agricultural to R-1C/Planned Unit Development; Resolution No. 12-147 approving a Planned Unit Development Amendment to the Argenta Hills PUD to Change the Original 44 Unit Townhouse Development to a 39 Unit Single Family Development; and Resolution No. 12-148 approving a Preliminary and Final Plat and Preliminary and Final Planned Unit Development for a 39 Unit Detached Single Family Development**

**Ayes: 4**

**Nays: 1 (Grannis) Motion carried.**

**FINANCE:**

**E. CITY OF INVER GROVE HEIGHTS;** Consider Resolutions Adopting Proposed 2013 Tax Levies, Proposed 2013 Budgets, and Setting the Date and Time of a Regularly Scheduled Meeting where the Budget will be Discussed

Ms. Smith stated the City must adopt the proposed 2013 tax levies and proposed budgets on or before September 17, 2012. The tax levies and the date for the regularly scheduled public meeting where the budget will be discussed must be certified to Dakota County by the same date. She explained the budgets were still proposed and may change prior to final adoption in December. The General Fund budget represented a 0.2% decrease from the 2012 amended budget and is mainly supported by the tax levy. She noted the tax levies could be reduced, but not increased after the proposed levies were certified. The proposed budget was distributed to the Council on July 20<sup>th</sup> and subsequently discussed at several work sessions. Staff was directed to prepare a proposed budget with a 3% tax rate increase and has remained unchanged since that time. Staff recommended Council consider adopting the final budget and tax levies at their regularly scheduled meeting on December 10, 2012.

Mayor Tourville stated the Council’s direction was to prepare the budget with a maximum increase to the tax rate of 3% with the intent to reduce that number prior to final adoption in December.

Mr. Lynch clarified that the 3% increase was to the tax rate only, not to the expenditures. He noted that the actual expenditures were reduced by 0.2% from the amended 2012 budget and the proposed tax rate increase was the result of the decrease in market value and tax capacity within the City.

Ms. T’Kach presented the Council with ideas for potential budget cuts or cost saving measures.

**Motion by Piekarski Krech, second by Klein, to receive budget suggestions from Mary T’Kach**

**Ayes: 5**

**Nays: 0 Motion carried.**

Councilmember Madden noted, just upon first glance, staff had already implemented a number of the proposed cost saving measures that were presented.

Ms. T’Kach commended staff for holding the line on expenditures and trying to keep operation costs down. She stated if everyone works together there could be more opportunities for savings that may have not been considered.

Councilmember Piekarski Krech stated she would not support the budget in December if it still reflected a 3% increase to the tax rate.

**Motion by Klein, second by Piekarski Krech, to adopt Resolution No. 12-149 Adopting Proposed 2013 Tax Levy, Resolution No. 12-150 Adopting Proposed 2013 Budgets, Resolution No. 12-151 Adopting Proposed 2013 Tax Levies for Watershed Management Taxing Districts, and setting**

**December 10, 2012 as Regularly Scheduled Meeting where the Budget will be discussed.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**ADMINISTRATION:**

**F. CITY OF INVER GROVE HEIGHTS; Consider Approval of Contract for Remediation of Bio Retention Basin D**

Ms. Teppen asked the Council to approve a contract with M&J Services of Minnesota to complete the bio retention basin on the south side of City Hall. She stated the basin was included as part of the City Hall project, but ongoing issues have been experienced with respect to the functioning of the basin and finding a viable solution to the problem. She stated the architect recently made the determination that the basin was built to contract specifications. Because the City disagreed with that opinion, legal counsel drafted a letter advising the architect and the contractor that the City requested that the topic be mediated on October 9<sup>th</sup>. In order to get remediate the issue before winter the City sought bids to complete the project. A bid was submitted by M&J Services of Minnesota in the amount of \$29,728.65 and the City would seek to recoup those funds through mediation.

**Motion by Klein, second by Madden, to approve contract with M&J Services of Minnesota for Remediation of Bio Retention Basin D in the amount of \$29,728.65**

**Ayes: 5**

**Nays: 0      Motion carried.**

**8. MAYOR & COUNCIL COMMENTS:**

Mayor Tourville commented on the success of Inver Grove Heights Days and commended the efforts of all those involved.

Mr. Carlson provided an update on the Harmon Farms Trail Run.

Ms. Teppen reminded residents about Fall Clean Up Day on September 15<sup>th</sup>.

**Motion by Klein, second by Grannis, to schedule special City Council meeting on September 17, 2012 from 5:30 p.m. to 6:00 p.m. in the lower level training room of City Hall**

**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 8:15 p.m.**