

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, SEPTEMBER 24, 2012 - 8150 BARBARA AVENUE**

**CALL TO ORDER/ROLL CALL** The City Council of Inver Grove Heights met in regular session on Monday, September 24, 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, Parks & Recreation Director Carlson, Community Development Director Link, Finance Director Smith, Assistant City Engineer Dodge and Deputy Clerk Kennedy

**3. PRESENTATIONS:**

**A. Parks and Recreation System Plan Kickoff Presentation**

Mr. Carlson explained in July the City hired Hoisington Kogler, Inc. to help update the Parks and Recreation System Master Plan.

Ms. Lathan, Hoisington Kogler, explained the need for the project stemmed from the fact that over the past few years revenues have decreased while infrastructure needs and recreation service demands have increased. She stated the project would update the 2009 Parks and Recreation System Plan and the goals of the project are to engage the community to help shape the future of parks and recreation in the City to help create a 10-15 year vision that is community supported. A five (5) year prioritized guide would also be created to outline items that could be accomplished within that time frame. She reviewed the five (5) tasks that will be completed during the course of the nine month project. The current task being completed is resource assessment during which community input and information will be gathered to compare the parks system against peer communities and national standards. She noted they will also be looking at the financial side of the parks system and what can be maintained with current resources. A community open house is scheduled for October 16<sup>th</sup> from 6:30 – 8:30 p.m. at the VMCC and staff will be looking for input as to what the future of the parks system should be. An online questionnaire is also available via the City's website.

Councilmember Madden encouraged everyone to participate in the survey, not just those citizens who are interested in Parks and Recreation. He stated he wants the survey to capture the opinions of a broad spectrum of citizens so staff is able to get a clearer understanding of what citizens really want and better plans can be made.

**4. CONSENT AGENDA:**

Councilmember Madden removed Item 4C from the Consent Agenda.

Mayor Tourville removed Item 4G from the Consent Agenda.

- A.** i) Minutes – September 10, 2012 Council Work Session  
ii) Minutes – September 10, 2012 Regular Council Meeting
- B. Resolution No. 12-152** Approving Disbursements for Period Ending September 19, 2012
- D.** Final Pay Voucher No. 5, Final Report and **Resolution 12-153** Accepting Work for Technology Bid Package 27B, City Project No. 2008-18, Public Safety Addition/City Hall Renovation
- E.** Pay Voucher No. 9 for City Project No. 2011-09D, South Grove Urban Street Reconstruction – Area 6
- F.** Pay Voucher No. 4 for City Project No. 2012-09D, Urban Street Reconstruction – 65<sup>th</sup> Street Neighborhood and Cahill Court
- H. Resolution No. 12-154** releasing IGH Development, LLC from the Development Contract for the Plat of Summit Pines that was approved April 10, 2006
- I. Resolution No. 12-155** Calling for Hearing on Special Assessments and **Resolution No. 12-156** Declaring Costs to be Assessed and Ordering Preparation of Proposed Assessments for 2012

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Nuisance Abatement

- J. Schedule Public Hearing (Laser Liquor License Transfer)
- K. Approve Massage Therapist License – Mary Staus
- L. Personnel Actions
- M. **Resolution No. 12-159A** Approving Charitable Gambling Premises Permit for CLIMB Theatre, Inc.

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

**Ayes: 5**

**Nays: 0 Motion carried.**

- C. Change Order No. 3 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation – Dascom

Councilmember Madden stated he was concerned about the number of change orders being processed for projects. He questioned why the issue was not addressed as part of the original contract.

Ms. Teppen explained the change order was for the new video distribution system approved for the Police Department. She stated the Police Department had a number of video display monitors installed and the system allows the monitors to be split into quarters so officers can view multiple things at one time. She noted they waited to install the system after the project was underway and outside of the original contract because it was known that the technology would change prior to installation.

**Motion by Madden, second by Klein, to approve Change Order No. 3 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation - Dascom**

**Ayes: 5**

**Nays: 0 Motion carried.**

- G. Approve Proposal from SEH, Inc. for Water Treatment Facility Rehabilitation Project

Mayor Tourville stated he would abstain from the vote.

**Motion by Klein, second by Grannis, to approve Proposal from SEH, Inc. for Water Treatment Facility Rehabilitation Project**

**Ayes: 4**

**Nays: 0**

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

**5. PUBLIC COMMENT:** None.

**6. PUBLIC HEARINGS:**

- A. **CITY OF INVER GROVE HEIGHTS;** Assessment Hearing for City Project No. 2009-11, Concord Boulevard Phase 3 from 65<sup>th</sup> Street East to the Corporate Boundary with the City of South St. Paul

Mr. Dodge reviewed the project area for the third phase of the Concord Boulevard project. He explained 58 parcels were proposed to be assessed including single family, multifamily, commercial and Dakota County CDA properties. He stated street and storm sewer improvements were completed as part of the project. He explained the multimillion dollar project was primarily funded by Mn/DOT and Dakota County through the use of turn back funds. The City's portion of the project was \$485,635.25 of which \$214,706.02 was proposed to be assessed. Assessments were proposed to be levied against benefitting properties at a 4.8% interest rate over a 10 year term. He noted this was the same interest rate that assessments were levied at for the second phase of the Concord project. He explained as per policy single family parcels were assessed \$3,780, multifamily parcels were assessed \$1,500-\$3,000, and commercial properties were assessed (based on front footage) \$1,900 to \$19,000. He noted a benefit analysis was conducted by an independent appraiser to ensure that the proposed assessments were fair

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and equitable and all of the proposed assessments fell within the range recommended by the appraiser. A cap of \$4,000 was recommended for single family parcels, \$2,000 per unit multifamily, and \$1 per square foot for commercial properties. He noted an informational meeting was held on September 12<sup>th</sup> for businesses and residents. An issue was raised regarding a military deferment for an active duty member of the military who owns one of the parcels proposed to be assessed. He stated the deferment was being processed in conjunction with the City Attorney's office. The second issue related to an objection filed by the owner of a commercial property, Budget Sandblasting. Engineering staff recommended approval of the proposed assessment roll.

Steve Barry, 6202 Concord Boulevard, owner of Budget Sandblasting & Painting, stated his lot was narrow and long. He explained he was already paying an assessment for sewer improvements that were completed as a result of Xcel Energy damaging his line during construction. He stated it is already difficult to pay the taxes on his property and he requested that his assessment be reduced to \$4,950.

Mayor Tourville questioned if staff had a chance to look at Mr. Barry's request.

Councilmember Piekarski Krech questioned why Mr. Barry was responsible for the sewer line if it was damaged by Xcel.

Mr. Lynch explained that Xcel hit a line they were not aware of because it was not marked, was not known historically to be located there, and it was part of a non-compliant septic system on the property. There was not an existing connection to sewer service, so the property was hooked up to City sewer in order to bring it into compliance and to remove the failed, non-compliant septic system. An agreement was reached with the property owner whereby the City financed the connection to the sewer system and the property owner would pay the City back over a period of five (5) years.

Bill Ashton, 6449 Concord Boulevard, owner of Jersey's Bar & Grill, verbally objected to the proposed assessment. He questioned why all of the residential properties along Concord were not assessed.

Mr. Dodge explained a majority of the parcels that were not proposed to be assessed are single family parcels whose driveways do not front Concord Boulevard. The driveway access is to other side streets or the alley. He noted there were two parcels, triangular in shape, that were not assessed because they are undevelopable.

Mayor Tourville clarified that the Dakota County CDA properties were being assessed.

Mr. Ashton questioned if the single family parcels that were not being assessed were connected to the sanitary sewer that had improvements completed as part of the project.

Mr. Lynch explained there was not an extensive amount of sewer work completed as part of the project. He stated some upgrades to connections and cross-connections were completed in addition to some of the main line improvements, but not a lot of individual services were changed. Most of the properties in question have individual service connections that were not impacted by the improvements.

Mr. Dodge explained City Project No. 2009-21 specifically addressed utility improvements that were completed with the project and those improvements were paid for with utility funding.

Mayor Tourville explained the project was a joint project with the County and the cost share agreement was a 55/45 split with the City being responsible for 45% of the costs.

Mr. Ashton stated the road construction was detrimental to the businesses along Concord for over two (2) years. He requested a reduced assessment and noted property values have decreased while the taxes for commercial properties have increased.

Mr. Kuntz explained Mr. Ashton would need to provide a formal written objection to the proposed assessment for the record.

Jim Mueller, 7800 Boyd Ave., referenced two parcels located at the end of the project area and asked if they were not being assessed because they did not have direct access to Concord.

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Mr. Dodge replied in the affirmative.

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

**Ayes: 5**

**Nays: 0 Motion carried.**

Councilmember Klein commented on the County's policy to have cities assess for projects on County roads. He opined that the policy was unfair and extremely costly to cities.

Councilmember Piekarski Krech questioned what an alternative solution would be. She noted that a certain percentage of the costs have to be assessed in order to qualify for state aid funding.

Mayor Tourville asked if it would be worthwhile to have staff review the proposed assessments for the two (2) parcels they received comments on.

Mr. Dodge reiterated that all of the proposed assessments fall under the independent appraiser's recommended caps.

Councilmember Piekarski Krech stated if they were going to consider amelioration for some it would need to be considered for all of the properties proposed to be assessed so it is done equitably across the board.

Mr. Barry asked for clarification that the proposed assessments for commercial properties were calculated based on front footage not by the square foot.

Mayor Tourville responded in the affirmative.

Mr. Barry explained his lot was 39,204 square feet and objected to how the assessment was calculated.

Mr. Dodge explained the policy is to calculate assessments for commercial properties on a front foot basis. The appraiser determines benefit on a square foot basis.

Mr. Lynch stated Council could consider adjustments to the length of the assessment term and interest rate for amelioration. He noted staff did not recommend that course of action, but it could be pursued.

Councilmember Piekarski Krech stated her concern with an interest rate reduction is that the previous project on Concord was assessed at a 4.8% interest rate. She noted she would not have a problem with extending the length of the assessment term.

Mr. Kuntz stated a letter of objection to the proposed assessment was submitted by Jersey's Bar & Grill.

**Motion by Madden, second by Piekarski Krech, to receive written letter of objection from William Ashton, property owner of parcels 2 & 5 on the assessment roll**

**Ayes: 5**

**Nays: 0 Motion carried.**

Councilmember Piekarski Krech asked if it would help to have the term extended.

Mr. Ashton and Mr. Barry responded in the affirmative.

**Motion by Madden, second by Piekarski Krech, to approve Resolution No. 12-157 adopting the Assessment Roll at a 4.8% Interest Rate over a 15 Year Term for City Project No. 2009-11, Concord Boulevard Phase 3 from 65<sup>th</sup> Street East to the Corporate Boundary with the City of South St. Paul**

**Ayes: 5**

**Nays: 0 Motion carried.**

**7. REGULAR AGENDA:**

**COMMUNITY DEVELOPMENT:**

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### **A. WALMART STORES, INC.;** Consider Resolution Amending the PUD Approval to Allow Store to Remain Open 24 Hours on Thanksgiving Day

Mr. Link stated Walmart submitted a request for extended hours on November 22, 2012 to allow the store to remain open for 24 hours into the morning of Friday, November 23<sup>rd</sup>. In recent years it has become a more common practice for retailers to remain open overnight into the Friday after Thanksgiving and Walmart is one of the few, if not the only business in the City that has restricted hours of operation. He explained the store hours are currently restricted to 7:00 a.m. to 11:00 p.m. daily, with the exception of the Friday after Thanksgiving when the store is allowed to open at 5:00 a.m. He noted the parking lot lights would remain on at full intensity during the temporary extension. He clarified that the request was a one-time extension and if Walmart sought to make a permanent change an application for a PUD and Development Contract amendment would be required. Planning staff supported the request provided there were no neighborhood concerns.

Richard Snyder, Legal Counsel for Walmart, clarified the request was for a 6-hour extension from 11:00 p.m. on Thanksgiving to 5:00 a.m. on the day after Thanksgiving. He stated retail markets have changed and there is a demand for this in the community because people want to be able to shop during those hours and there is an expectation that the stores are going to be open. He added it would be a convenience for those members of the community who do want to shop during those hours and it would avoid confusion with advertisements of other stores being open. The extended hours would also help avoid the inconvenience of shoppers having to stand outside in the cold waiting for the store to open. He explained Walmart is restricted to the hours it can be open whereas its competitors in the City are not and allowing the extension of hours would put all the retail stores on a level playing field. He noted in the future Walmart may pursue a CUP amendment to avoid having to make the same request annually. He opined that

approval of the request would provide a baseline by which a future CUP amendment could be judged.

Councilmember Klein questioned if the lights on the side of the building could be shut off during that six (6) hour timeframe if the lights on the front of the store were turned on.

Tim Peterson, former store manager, explained the side lights could be overrode to be shut off at 11:00 and turned back on at 5:00 a.m.

Councilmember Klein asked if parking could also be restricted to the front of the building during the extended hours to reduce any impact to the neighborhood.

Mr. Peterson explained the difficulty with that is the large number of customers who shop at the store during that time frame. He stated a safety issue may be created if parking is restricted because typically the whole lot is filled.

Councilmember Madden explained in past years he was opposed to the store being open 24 hours. He stated circumstances have changed in the City this year and he does agree that it is an issue of equity in that competing retailers in the City do not have restricted hours of operation.

Councilmember Piekarski Krech stated times may have changed but the original agreement made with Walmart should continue to be honored. She explained people in the neighborhood still have the same concerns.

Councilmember Klein stated the request is for six (6) hours on one day of the year.

Councilmember Madden stated he would not support changing the hours for any other days of the year.

Councilmember Grannis stated the restriction on hours of operation was part of the original agreement that was made with Walmart to appease the neighborhood. He opined that he did not see where anything has changed in that area to justify changing the condition related to hours of operation.

Mayor Tourville stated he would support the request as a one-time extension to see how it goes.

**Motion by Klein, second by Madden, to adopt Resolution No. 12-158 amending the PUD Approval**

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**to Allow the Store to Remain Open 24 Hours on Thanksgiving Day**

**Ayes: 3 (Klein, Madden, Tourville)**

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

**8. MAYOR & COUNCIL COMMENTS:**

**9. ADJOURN:** Motion by Madden, second by Klein, to adjourn. The meeting was adjourned by a unanimous vote at 8:10 p.m.