

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, AUGUST 13, 2012 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, July 13, 2012, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Grannis, Klein, and Madden; 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 Fire Chief Thill

3. PRESENTATIONS:

A. Police Officer Introductions – Sgt. Haugland

Police Chief Larry Stanger introduced newly promoted Sergeant, Dennis Haugland.

B. Fire Officer Introductions

Fire Chief Thill introduced the new and reappointed Fire Officers. She explained the structure and congratulated all the officers.

4. CONSENT AGENDA:

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

Councilmember Klein removed Item 4V from the Consent Agenda.

- B. Resolution No. 12-119** Approving Disbursements for Period Ending August 8, 2012
- C. Resolution No. 12-120** Reallocating Remaining Proceeds of the City's \$4,885,000 General Obligation Improvement Bonds, Series 2010B
- D.** Final Pay Voucher No. 11, Final Report, and **Resolution No. 12-121** Accepting Work of Low Voltage Contractors, Inc. for City Project No. 2008-18, Public Safety Addition/City Hall Renovation Project
- E.** Change Order No. 2 and Pay Voucher No. 2 for City Project No. 2011-08, 66th Street Improvements (Concord Blvd. to the Swing Bridge Pier)
- F.** Final Compensating Change Order No. 1, Final Pay Voucher No. 3, Engineer's Report of Acceptance and **Resolution No. 12-122** Accepting Work for 2011 Storm Water Facility Maintenance Program – City Project No. 2011-17
- G.** Pay Voucher No. 2 for City Project No. 2011-21, 66th Street Parking Lot & related Trails
- H.** Pay Voucher No. 1 for City Project No. 2012-09A, Cracksealing
- I.** Pay Voucher No. 1 for City Project No. 2012-09B, Sealcoating
- J.** Receive Proposals and **Resolution No. 12-123** Authorizing Execution of Professional Services Agreement for City Project No. 2006-08, Asher Water Tower Replacement
- K.** Receive Proposals and Authorize Staff to Accept the Proposal from C&C Construction, LLC to Repair the Torn Roof Membrane on the Cold Storage Building
- L. Resolution No. 12-124** Accepting Agreement related to Landowner Improvements within City Easement on Lot 11, Block 1, Birchwood Ponds East 2nd Addition (8432 Casey Ct.)
- M.** Approve Custom Grading Agreement for Lot 3, Block 5, Marcott Lakes Estates
- N. Resolution No. 12-125** Approving Joint Powers Agreement (JPA) with Dakota County for the Construction of the Pine Bend Bluff Segment of the Mississippi River Regional Trail

- O. **Resolution 12-126** Accepting Permanent Drainage and Utility Easement for the 2012 Pavement Management Program, City Project No. 2012-09D, Urban Street Reconstruction – 65th Street Neighborhood and Cahill Court, for Borden Way Backyard Storm Sewer Improvements
- P. **Resolution No. 12-127** Receiving Quotes, and Awarding Contract for Work under the 2012 Pavement Management Program, City Project No. 2012-09D, Urban Street Reconstruction – 65th Street Neighborhood and Cahill Court, for Borden Way Backyard Storm Sewer Improvements
- Q. Accept the Americans with Disabilities Act Self Evaluation and Transition Plan
- R. **Resolution No. 12-128** Approving an Improvement Agreement for the McDonald’s Restaurant Remodel located at 3075 80th Street
- S. **Resolution No. 12-129** Approving a Contract for Professional Services for the Environmental Investigation of the Gun Club Site
- T. Approve Amendment to Supplemental Regulatory Agreement relating to Blackberry Pointe
- U. Approve Compensation Plan for Firefighting Personnel
- W. Schedule Public Hearing – St. Patrick’s Temporary Liquor License Request
- X. Personnel Actions

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

Ayes: 5

Nays: 0 Motion carried.

A. Minutes – July 23, 2012 Regular Council Meeting

Councilmember Piekarski Krech stated she arrived late to the July 23, 2012 meeting and would abstain from a motion to approve.

Motion by Klein, second by Madden, to approve the Minutes of the July 23, 2012 Regular Council Meeting

Ayes: 4

Nays: 0

Abstain: 1 (Piekarski Krech) Motion carried.

V. Resolution Approving Joint Powers Agreement (JPA) with the Minnesota Structural Collapse/Technical Rescue Task Force Organization

Councilmember Klein asked who was responsible for the training and if there were any liabilities under the joint powers agreement.

Fire Chief Thill explained the training that is done through Dakota County, and they pay for it. She said as far as the liability she understands the team holds the workers compensation coverage.

Motion by Klein, second by Piekarski Krech, to adopt Resolution No. 12-130 to Enter into Joint Powers Agreement with the Minnesota Structural Collapse/Technical Rescue Task Force Organization

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT: None.

6. PUBLIC HEARINGS: None.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. BITUMINOUS ROADWAYS; Consider the following Resolutions for Property Located at 11201 Rich Valley Boulevard:

- 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 contractor's yard with open storage

Mr. Link showed the property location on Rich Valley Boulevard. He explained there are two requests by Bituminous Roadways; the first request is an ordinance amendment for a five-year extension for the sand and gravel overlay zoning district. He said this zoning district has to be renewed each five years. Mr. Link said the second part of the request is for a conditional use permit amendment. He explained there are two changes to the request. One is for a ground water well and the other is for an extension of hours. Mr. Link stated the operation would not change except for those two changes. Because of the impact of the ground water, the city hired Barr Engineering to do analysis of the groundwater and the impact on the surrounding wells and the conclusion reached is there are no negative impacts on the adjacent wells in the area. Mr. Link said there was a person who expressed concern for his well and Barr Engineering reviewed that matter and submitted a report that says there are no impacts. He said the other request from Bituminous Roadways is to operate 30 night hours over the year.

Mr. Link said the Planning Commission and staff recommend approval of the request. He noted the consultant is present if there are questions.

Councilmember Klein asked about condition number 27 and the chances of that bill passing.

Mr. Link said there is no such legislation but that condition was put in just in case the State would adopt legislation.

Councilmember Piekarski Krech referred to condition 11, monitoring of the well and asked what the monitoring status will be of the new well.

Mr. Link said Bituminous Roadways will have to submit monthly reports and have reviews on a regular basis.

Councilmember Piekarski Krech questioned the expiration date of July 23rd.

Mr. Link said the application was submitted on time.

Mayor Tourville said the concerns are the drawdown and the contamination.

Kent Peterson, President of Bituminous Roadways, said if his well were to negatively affect other wells, he is legally obligated to fix the problem.

Michalea Whalen with Sunde Engineering, said the owner of the well that was found to have caused any negative interference with another well in the area, the owner of that well would have to make it right. She said as far as Barr's report it doesn't look like any ground water contamination will be a problem.

Mr. Peterson explained the purpose of the well is to allow them to wash aggregates. Previously they have tried to use stormwater, but that hasn't met their needs.

Ray Wuolo, Barr Engineering, said he was directly involved in doing the analysis. The proposed well is to be installed in a shallow sand and gravel aquifer. The pumping rate is about 150 gallons per minute. They will use the water over and over and so it replenishes itself. For three days during the spring, there will be 450 gallons per minute. They can conclude unequivocally that it will not change ground water flows and so it won't pull contaminated water back from the landfill.

Joe Maltese, lives directly behind and to the west of Bituminous, said it sounds like they did all the homework; however, he said the residents will have to prove where the problem came from and the resident will have to hire a law firm, so it's not an easy issue to resolve. He said he is looking for a guarantee that they won't have to go through that if someone has a problem with their well.

Mayor Tourville said the guarantee isn't going to come from a consultant so that is why the MPCA stepped in.

Mr. Maltese said Bituminous Roadways is a for-profit business and said someone needs to step up if there are problems, and asked whether the City would do that.

Mr. Wuolo, Barr Engineering, said there are two separate issues: water levels and water quality. Two different state agencies deal with the two issues. If a resident encounters water supply issues they should call the city and the city in turn will call the MPCA who will require BR to do a study. Water quality, City has strict oversight regarding Pine Bend Landfill and test annually. If the flows start to change and contamination is an issue, it will be known years to react to the contamination.

Steve Sandberg, 11802 Akron Avenue, said they live so close that they can hear the tailgates banging. He said he would like to see the motion sensor backup alarms put in.

Mr. Peterson said they have been replacing the backup alarms as they go out and they can't be heard that far away.

Councilmember Piekarski Krech asked if noise is becoming an issue how the 30 night hours will affect the residents.

Mr. Link said they did an environmental analysis and found the noise at the periphery of the property did not exceed state standard. He stated as far as the nighttime operation, the City Council has approved that before and has not received any complaints.

Jeff, 11636 Akron Avenue, asked who pays for the water if the well does go out.

Mayor Tourville responded that there has been reimbursement done immediately with the state law but it would depend on which issue was at hand, water level or contamination.

Joe Maltese asked that the approval be delayed until the City can investigate about who actually covers the cost.

Mayor Tourville asked Mr. Peterson what he thought if they wait two weeks.

Mr. Peterson asked Mr. Wuolo to respond and he said he is not an employee of the DNR but the law is clear about the liabilities with respect to water level. Contamination is under the purview of the MPCA and he can't answer to that.

Councilmember Piekarski Krech said she thinks the residents are asking for who determines whose fault it is if water levels change or contamination occurs.

Mr. Wuolo said that the determination is very easy and can be done within a couple of hours.

Mr. Peterson said they probably wouldn't operate the well until next spring so they can wait.

Mr. Kuntz said it may be best not to act on any of the permits to allow for more discussion. He said this could come back at the next regular meeting.

Mr. Peterson said he is agreeable to that.

Motion by Madden, second by Klein, to table consideration of the item to August 27, 2012

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. Link introduced the item and said the only update since the second reading on July 9, 2012 was that there would be no more than six training sessions held per calendar year.

Vance Grannis, Jr. commented on the outpouring of support. He said some people misunderstood what was previously said so he will repeat some things. He stated that all the code issues have been addressed and there was a question about using the DNR's Scientific Natural Resource land but State Statute prohibits this type of use and only the legislature can change that.

Mr. Grannis showed a map of the proposed conservation area. He also showed photos of the eagles nest, geese, wild turkeys, ducks, deer, and wild flowers. He said the property is also owned by his two cousins and they have agreed to try and get conservation easements. Once the conservation easement is in place to protect the land, they will seek funding to build the education center. He showed all the different types of activities and classes planned and said the gun safety is a small part of what they would like to do with the property. He showed where the gun safety training would occur. He talked about the gun safety program and said they have 50 years and one million students and never had an accident with live fire. The proposal is for 20 to 30 students at a time for field day experience. Upon arrival, students are inspected. Only .22 rifles will be used, no shotguns. Only four students shoot at a time, one instructor on each side, with one instructor behind each student. Each student shoots from a standing position, a kneeling position and a prone position. All shooting should be completed in one hour, and it's not constant but sporadic over that one hour.

Mr. Grannis believes he has found a solution that will he hopes will satisfy everyone. He said he contacted ammunition manufacturers and dealers to recommend a type that would be best in this situation. He showed a 22 caliber bullet that comes from Spain but the problem with this one is it is so quiet and has so little power it is only used in pistols and it's not sold locally. The CCI quiet bullet is only 68 decibels at the muzzle and normal conversation is about 65 decibels. Mr. Grannis showed a video demonstration of the different sounds levels generated by the different ammunition.

Mr. Grannis said they are not making the quiet bullet in non-lead. He noted the problem would be solved because the DNR has a special backstop made out of recycled tires that traps and holds the bullets.

Mr. Grannis asked that the City Council carefully consider this request, he believes that he has done everything that has been asked of him. He said that he thinks that all the youth activities that could be lost if the gun safety program is denied would be a sad thing for the city.

Mayor Tourville asked if the proposed bullet is accepted by the DNR.

Lieutenant Alex Gutierrez of the DNR said yes it is that they have secured 5,000 rounds for the seven county metro area.

Mayor Tourville asked Mr. Grannis if he was saying that if the gun range is not approved the state will not vote for the conservation easement.

Mr. Grannis said that he personally doesn't want to run the risk of losing these opportunities when the issues of safety and noise have been addressed.

Councilmember Klein asked what the land has been appraised at for the conservation easement.

Mr. Grannis said the land has not yet been appraised.

Elizabeth Niemioja, 8658 Applegate Way, said she went to the Planning Commission meeting on this issue because she lives in a neighborhood close to this. She said she has done a lot of concerns and did a lot of research on this issue. She said all the research points to the fact there is no reason to deny a gun safety range. Ms. Niemioja said that she believes that gun safety is something that everyone can agree on. She said she didn't think this would affect getting funding. She stated this would make the community a better place and it is safe. She said the Council has the power to pull the permit if needed. The chances to get the money are better if the gun range is allowed.

Tom Wilkens, 8959 Inver Grove Trail, said he supports the whole vision for the outdoor skills/nature center. He noted his property doesn't border the proposed nature center.

Dave Moline, 9260 Arnold Avenue, said he came to deliver 190 petitions against the gun proposal. He asked about an indoor training facility. Mr. Moline said most the people are against the location and said all the other alternatives should be explored.

Mr. Grannis said an indoor range has always been something that will happen when the funding comes and the outdoor wouldn't be necessary any longer. He noted there is no funding today for even the conservation easement.

Councilmember Klein asked about digging out some of the hill and sandbagging which might reduce some of the noise and add a safety factor. He asked if Mr. Grannis would be willing to do that.

Mr. Grannis said that he's not sure what will change if he were to do that.

Mr. Moline said his recommendation would be to deny this and see if the funding comes through. If the funding comes through the Council could reconsider it.

Councilmember Madden asked if all the people on the petition live in the area. Mr. Moline said about 160 to 170 are in the residential area.

Motion by Piekarski Krech, second by Klein, to receive the petition submitted by Dave Moline.

Ayes: 4

Nays: 0

Abstain: 1 (Grannis) Motion carried.

Dale Suckstorff, 9250 Arnold Ave, said he is opposed to this. He applauded Mr. Grannis for putting in a nature center. He said that he doesn't see a nature center and a gun range being a compatible use. He asked if warning signs would be put out. He said the other issues he has are with the security and liability.

Kristine Zellmer, 8988 Aralia Court said she doesn't feel the safety issue is resolved. She said there are trails open to those that live in the area and they are frequently used. She stated there is no notification system with the DNR so they would have to search the website to find the dates of the training sessions. Councilmember Klein asked if the trail could be closed. Ms. Zellmer said this trail is at the very top of the hill and there isn't just one entry and people don't always stay on the trails. She said that she believes there are other locations in the City where a gun safety range could be located.

Steve Sandberg, Akron Avenue, said he is in favor of this and has been a firearms instructor for about 50 years. He said people talk about the trails that belong to Vance Grannis.

Mayor Tourville noted the trails that the previous person referred to do not belong to Mr. Grannis.

Thurman Tucker, 1341 Sheridan Avenue North, Minneapolis, said he from the Quail Forever Metro Chapter and is here supporting Vance and thinks he has an outstanding concept and vision. He said they are looking for something like Mall of America for wildlife. He stated this is a great piece of property and he is so impressed with this property. He said everyone is concerned about gun safety. Mr. Tucker said there will be professionals with the students helping and guiding them, just as they do with driver's safety training.

Dian Piekarski, 7609 Babcock Trail, said hunters respect wildlife and therefore hunters want to preserve the habitat. She hopes the testimonies of the professionals are taken into consideration. She said it is an incredible opportunity for this city that won't be seen again if turned down. She said more people are killed by lawnmowers than are killed in gun range accidents.

Tim Sweeney, 9223 Barnes Avenue, said experts say it's safe. He commented on the risks and said it is the City Council's responsibility to make a thoughtful decision. Mr. Sweeney clarified that the trails are private and that the safety issues and noise issues have been addressed.

Councilmember Klein asked about the backstop and said there is going to have to be some earthwork to level the space.

Lieutenant Gutierrez said the current backstops are about 2 feet tall. He said the DNR's recommendation is to not build anything permanent.

Lee Lindberg, 8965 Alfa Lane said that he wants to make one thing clear for the record and that is Vance Grannis is one of his best friends. He said Mr. Grannis put together a concept and without Mr. Grannis, the conservation easement on Mr. Lindberg's property would not have happened. Mr. Lindberg asked exactly where the firing will take place.

Mr. Grannis explained where the firing will take place.

Mr. Lindberg said this is not described and asked that it be defined in writing. He said this piece of land has been a special place and they wanted to preserve it. He stated he supports Mr. Grannis in the gun safety efforts but not the outdoor gun range, that the risk of a stray shell is just too great. He commented on the funding being dependent upon a fire range and that is not what he has been told by Mr. McNamara. Mr. Lindberg said he doesn't think the sound is going to be a big problem, but the greater potential is for a stray shell to hit someone who has wandered off a trail. He asked if Mr. Grannis would be willing to indemnify them if something happened.

Councilmember Klein clarified that the DNR will indemnify any accidents.

Lt. Gutierrez confirmed that the state assumes that liability.

Ellie Schafer, 8943 Aralia Court, said she will be scared for her safety since they are right next to the range. She stated she can vote for the first time this year and she doesn't want to be afraid to go out on her own property.

Steve Jacoby, 3787 Denmark Ave., Eagan, former resident of Inver Grove Heights, said he has been through gun safety and he is an avid outdoorsman. He said the students would be shooting down with a seven story hill behind them and it is an easy task. He said people are concerned about safety but that is what they are going to learn how to shoot and how to respect a firearm. He stated by allowing something like this will create solid good citizens.

Kirk Lindberg, 8799 Audobon Road, said they are all supportive of gun safety and of Mr. Grannis but there are disagreements about the proposed gun range. He read his ten reasons to oppose the gun range.

Bill Carlson, 9250 Courthouse Boulevard Court, said he is in support of the gun range. He spoke about a gun range that is located close to a residential neighborhood in Welch Village. He said there have never been any incidents at that range. He said he doesn't see any danger and the noise issue was addressed.

Mark Crowe, 8910 Alfa Lane, said he is against the gun range but supports gun safety. He noted he doesn't want a range by his house. He questioned why it has to be a live fire course and said that he said he is an avid hunter.

Larry Hassler, 8885 Alfa Lane said as a resident of that area he is concerned with a gun range. He questioned how many residential areas in the state are located by a gun range.

Brian Trask, 5425 Bryce, said he went through gun safety training when he was younger. He thinks putting a gun range in a residential area is unsafe.

Jeannine Howland, 901 Oriole Drive, Apple Valley, said she is a volunteer naturalist for Mr. Grannis. She said the safety concerns are valued but that it falls into the daily operations of a nature center. She stated this will be a supervised activity and it will be only in a specific location, and the trails will be marked.

Diane Lindberg, 8799 Audubon Road, said the point is that kids don't always follow the rules and they don't know what the laws are.

Irene Lee, 1900 96th Street East, said the kids should be punished but not by being shot at.

Dave Schaffer, 8943 Aralia Court asked what exactly Mr. Grannis has applied for. He said the building is on an incline so it would not be a 7 story building they would be shooting into. He stated if it is so safe, it

should be turned around so they are shooting at Mr. Grannis's house.

Edie Leonard, 1613 Lakota Lane, Burnsville, said she is a firearm inspector for the DNR and wants to use the property for gun safety training. She said part of what they teach the kids, is to respect others. She noted there is a volunteer on every single student and two range masters standing back watching, and if they see anything out of line, they will cease the fire.

Councilmember Madden said he is a retired US Treasury Agent and he spent a lot of time on ranges. He said this is an area they are doing training with weapons not a range. A range denotes that people will be there all the time shooting. He said he is not concerned about the safety because it will be very safe and he believes this training will avoid accidents and save lives down the road. He stated he supports a permitted use and he thinks it is a good idea.

The City Council took a five minute break.

Councilmember Klein referred to condition number 7 and said there should be a bullhorn announcing there is a firing range. He said he is concerned about safety.

Councilmember Piekarski Krech said her concern is that this is all protected that there is no development on the property. She stated gun safety is important.

Mayor Tourville said there are some questions that need to be addressed. He said that the Council does need to decide if they want the quiet bullet. He asked that an additional condition be added that requires a certificate of coverage annually from the DNR. He asked that the classes be listed and the people are notified.

Mr. Kuntz said that can be added as condition 9.

Councilmember Klein added that the range must be completely defined in writing.

Mr. Grannis said when the ordinance was written, it was understood that the police chief would designate the area to avoid micromanagement by the City Council.

Motion by Madden, second by 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 added conditions.

Mayor Tourville said he would probably not support a permitted use. He said he thinks it should be an interim use so it can be reviewed annually.

Ayes: 2 (Madden, Piekarski Krech)

Nays: 2 (Klein, Tourville)

Abstain: 1 (Grannis) Motion Failed.

Motion by Klein, second by Piekarski Krech, to approve the Third reading of an Ordinance Amendment to allow a DNR Gun Safety Program with Outdoor Shooting as an interim use for one year with the added conditions.

Mayor Tourville said he would waive any additional cost to the applicant.

Mr. Kuntz clarified in condition number 4, the ammunition CCI subsonic lead, DNR approved and provided, would be substituted.

Ayes: 2 (Klein, Tourville)

Nays: 2 (Madden, Piekarski Krech)

Abstain: 1 (Grannis) Motion Failed.

C. CITY OF INVER GROVE HEIGHTS; Consider Third Reading of Ordinance Amending Inver Grove Heights City Code Title 5, Chapter 6, Section 1(B) regarding Use of Firearms

Mayor Tourville stated no action was required on this item since the previous item was not approved.

8. MAYOR & COUNCIL COMMENTS:

Mayor Tourville said they are looking for input from the citizens to look at a park plan that will be ready around June of 2013. He noted the survey is on the website.

Mayor Tourville reminded citizens that the Primary election would be held on August 14th.

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