

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, March 26, 2018- 8150 BARBARA AVENUE**

1. CALL TO ORDER and 2. ROLL CALL

The City Council of Inver Grove Heights met in regular session on Monday, March 26, 2018, in the City Council Chambers. Acting Mayor Piekarski Krech called the meeting to order at 7:00 p.m. Present were Councilmembers Bartholomew, Hark, and Perry; City Administrator Lynch, City Attorney Kuntz, Community Development Director Link, City Clerk Tesser, Parks and Recreation Director Carlson, Public Works Director Thureen, City Engineer Kaldunski. Mayor Tourville (absent) Recording Clerk Yourczek (absent).

3. PRESENTATIONS: There were no presentations at this time.

4. CONSENT AGENDA:

- A. i. Minutes of March 12, 2018 Special Meeting Minutes
- ii. Minutes of March 12, 2018 Council Meeting Minutes
- B. **Resolution 18-52** Approving Disbursements for Period Ending March 20, 2018
- C. Consider Purchase of Ice Resurfer for the VMCC
- D. Establish Legislative Initiatives and Positions for the 2018 Legislative Session
- E. Approve Purchase of Capital Equipment
- F. Consider Pay Voucher No. 12 for the 2015 Capital Improvement Program, City Project No. 2015-13 – NWA Trunk Utility Improvements, Argenta District (70th Street Lift Station to Blackstone Ridge) and 2015-16 – Trunk Utilities, Argenta Trail to Blackstone Ridge
- G. **Resolution 18-53** Receiving Bids and Awarding Contract for the 2018 Pavement Management Program, City Project No. 2018-09A – Crackseal
- H. **Resolution 18-54** Receiving Bids and Awarding Contract for the 2018 Pavement Management Program, City Project No. 2018-09B – Sealcoat
- I. Consider **Resolution 18-55** Accepting Construction Phase Services from Kimley-Horn & Associates, Inc. and Accepting Geotechnical Services Proposal from American Engineering and Testing, Inc. for City Project No. 2017-21 – VMCC/Golf Course Parking Lots
- J. Consider **Resolution 18-56** Accepting Construction Engineering and Survey Services IPO No. 21D from Kimley-Horn & Associates, Inc. and Geotechnical Services Proposal from American Engineering and Testing, Inc. for City Project No. 2015-09D – Broderick Boulevard Reconstruction from 80th Street to Concord Boulevard
- K. Consider **Resolution 18-57** to Approve a Local Road Improvement Program (LRIP) Grant Agreement (No. 1030184) with Minnesota Department of Transportation (MnDOT) for City Project No. 2015-09D – Broderick Boulevard Reconstruction from 80th Street to Concord Boulevard
- L. Consider Resolutions Calling for Hearing **Resolution 18-58** on Proposed Assessments, Declaring Costs **Resolution 18-59** to be Assessed, and Ordering Preparation of Proposed Assessments for the 2018 Pavement Management Program, City Project No. 2017-09E – 93rd Street/Abigail Court Area Reconstruction
- M. Consider **Resolution 18-60** Approving Shared Costs Agreement for City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements
- N. Consider **Resolution 18-61** Adopting the Assessment for 2017 Nuisance Abatement Program
- O. Personnel Actions

Acting Mayor Piekarski Krech asked to remove Agenda Item 4C.

City Clerk Michelle Tesser suggested removing Agenda Item 4N to add to the Public Hearing Item 6A.

Motion by Perry second by Hark to approve the Consent Agenda with the exception of Agenda Items 4C and 4N.

Ayes: 4
Nays: 0 Motion carried.

Acting Mayor Piekarski Krech stated that the back-up alarm was omitted from some fire trucks in the past and she felt that for safety reasons it should be included on the ice resurfacer (Zamboni).

Parks and Recreation Director Eric Carlson responded that the current Zamboni does not have a back-up alarm. He stated that it is staff's opinion that it's not need or required.

Motion by Perry second by Bartholomew to Consider the Purchase of the Ice Resurfacer for the VMCC.

Ayes: 4
Nays: 0 Motion carried.

City Attorney Tim Kuntz stated that Agenda Item N, to Consider a Resolution Adopting the Assessment for 2017 Nuisance Abatement Program, is when people are told to do something on their property and they do not. Due to the inaction, the City took care of it of the nuisance and the City assesses for the work that was completed.

Acting Mayor Piekarski Krech stated that we are opening a Public Hearing on Agenda Item 4N to Consider a Resolution Adopting the Assessment for 2017 Nuisance Abatement Program.

City Administrator Joe Lynch stated that information was given out previously regarding the property locations and the amounts. The City has performed services such as cutting grass, removing trash, and miscellaneous clean-up. He stated that these items could be done multiple times at a single property. The assessments will be certified with Dakota County and assessed to the properties.

Motion by Bartholomew second by Perry to close the Public Hearing at 7:05PM.

Ayes: 4
Nays: 0 Motion carried.

Motion by Hark second by Perry to approve Resolution 18-61 Adopting the Assessment for 2017 Nuisance Abatement Program.

Ayes: 4
Nays: 0 Motion carried.

5. **PUBLIC COMMENT:** There were no public comments at this time.

6. **PUBLIC HEARING:**

7. **REGULAR AGENDA:**

I. COMMUNITY DEVELOPMENT:

A. GWEN LYSNE; Consider an Ordinance Amendment to Rezone three parcels from R-1C, Single Family Residential District to B-3, General Business District for property located west of 6591 Concord Boulevard.

Michael and Gwen Lysne asked to have this Agenda Item moved to the next meeting since Mayor Tourville was absent. The Applicant is requesting an Amendment that requires a 4/5th's vote.

Community Development Director Tom Link stated that we can bring this back before the Council on April 9th. We are coming up on the first 60 days, but the City has the authority to extend another 60 days if the Applicant wishes.

Motion by Bartholomew second by Hark to postpone the Agenda Item regarding GWEN LYSNE; to Consider an Ordinance Amendment to Rezone three parcels from R-1C, Single Family Residential District to B-3, General Business District for property located west of 6591 Concord Boulevard.

Ayes: 4

Nays: 0 Motion carried.

B. INDUSTRIAL EQUITIES, LLP; Consider a Resolution relating to a Preliminary Plat and Preliminary PUD Development Plan for a one lot plat to construct a 95,250 square foot office/warehouse building for property located at Auburn Path and Argenta Trail. Resolution 18-62.

City Planner Allan Hunting stated that this is a request for a Preliminary Plat PUD. The request is to combine two lots, replat it into one lot, and development it with a 95,250 square foot building. The site is located at Auburn Path and Argenta Trail. He referenced a drawing of the proposal and stated that the project meets all required setbacks. He stated that the project complies with the 20% open space but does not meet the 50% open space as they have to disturb the entire site to do grading and improvements.

Planner Hunting stated that Staff and the Planning Commission does not see that as an issue. He stated that the project will provide a 30-foot wide easement for a segment of the Dakota County Regional Trail. He stated that the landscaping plan is short a few trees but will be addressed with the final plat and PUD Plan. The project will be served by Eagan Utilities through the JPA. The Applicant feels that the parking proposed of 184 spaces, out of the 203 suggested, is adequate. He stated that the biggest issue is the access which he depicted on a map, that could be a loop system to Alberta Way once the land was ready to be developed.

He stated that Staff met with Mr. Jansen and they did not come to an agreement.

He stated that there are two options to address:

1. Retain the existing public road easement. He stated that the Applicant would be building a service road that would be a public street by City standards at 28-feet wide with parking on one side but would need some sort of turn around for fire trucks. Money would be held in escrow so the segment could be built to the north property line and continue when development occurred.

Planner Hunting stated that the plan as proposed would meet all the setbacks.

2. Vacate the roadway. He displayed a map depicting the area in the easement. The location would be vacated, absorbed and then developed. The building would be moved to the east and the access road would be the same.

Planner Hunting stated that if the easement was vacated, the utilities would be coming from Eagan. He stated that the City Engineer was concerned about extending the utilities and felt that they should have the ability to serve the general area by the same extension under the JPA.

He stated that if this is to be vacated, there should be a condition added that the cemetery property owner and the landowner waive any claims against the City regarding vacating the easement in the public road.

Planner Hunting displayed the plat showing the easements in Outlot D and Outlot A, which are owned by the same entity and sold together and re-platted into one. He stated that Staff recommends that they keep that easement for future development. The Applicant would prefer to vacate it and keep it as one lot.

Acting Mayor Piekarski Krech asked how big of an area the JPA covered. She was concerned with Eagan utilities.

Planner Hunting responded that there is a boundary that was established at the outset and it would not keep encroaching.

Councilmember Bartholomew asked for clarification on the private easement that would require Outlot D, and the lot to the north, to agree to the private easement.

Planner Hunting stated that they have a public street in front of them that could be their access point. If they vacate that, they would have to sign off on that and accept that the public road access has gone away and we would continue to use our private road systems.

City Attorney Tim Kuntz stated that Outlot D and A are owned by the same owner. If it is vacated, Outlot D would go to that owner. Currently, Outlot B has an access to Outlot D as he depicted on an aerial map. Condition 21 was added by the Planning Commission.

Planner Hunting stated that the Planning Commissions concern was that the map shows the existing access point from the cemetery. They wanted to make sure that whatever arrangement was made, this existing access point was not cut off.

City Attorney Kuntz stated that they added a condition that states that appropriate access to the cemetery land to the east shall be provided via the proposed road for the development. They have to give the cemetery an easement. He stated that the second item to address is Outlot B, which joins not only Outlot D, but also the public road. The land to the north of the plat adjoins the tip of the road as well. He stated that they could add Condition No. 22 that states that you have to obtain waivers of claims from the owner of the lot to the north and owner of the cemetery lot waiving any claims against the City if the City vacates the public road. He stated that when we get to that point we need to ask for waivers from those properties before we vacate.

Councilmember Bartholomew asked about having an escrow from the City from the developer for having a connection to any of the lots.

David Jansen, 7985 Argenta Trail stated that there isn't a logical reason to support having a City road there. The terrain is hilly, and he won't be able to build a connection to that. He stated that he is fine with vacating the easement but was concerned regarding the usage hours of the business.

John Allen, Industrial Equities, 321 - 1st Avenue North, Minneapolis, stated that he can make the project work either way. Parking in front gives a better corporate sense and they can put a retaining wall along the wooded area. He stated that he had never heard of any condition that stated that he had to go out and get an indemnity from contiguous property owners for a right of way. He stated that in doing that, the project come to a standstill if opposed. This isn't a road, it's a right of way and nothing has been built there. He stated that he was contacted by Mr. Kimas, who is another property owner, and he is not in favor of this road coming through here. He stated that the City Council is legally invested with the ability to vacate the right of way if they want to do it, as it makes a better project. He would try to get that but in doing so, it could put the project on hold while they work on the legal matter. He stated that he will do what he can for access to the cemetery.

Planner Hunting referenced a few maps with the location of the private road which would have to be maintained. The cemetery has access to the public road. He stated that the agreement would allow the

property owner to continue to access via Outlot D. From their road system, public or private, they have to make sure there is a provision that the access point is maintained.

Councilmember Hark asked if the agreement goes into our conditions.

Attorney Kuntz stated that it's under Condition 21, which was recommended by the Planning Commission that there be some easement to the cemetery.

Acting Mayor Piekarski Krech asked if moving the building forward and vacating the easement would affect the ponding area.

Planner Hunting responded that if they did have a larger building the ponding area would have to be increased. He stated that the access road to the cemetery could go slightly onto the Applicant's property.

Acting Mayor Piekarski Krech stated that we are deciding whether or not to vacate the easement, and then requiring waivers from the two property owners, Mr. Jansen and the owners of the cemetery. She questioned if we still needed to get a waiver if we are already requiring them to give an easement for access.

Attorney Kuntz responded that if they are satisfied in the easement, they would be satisfied with the vacation.

Mr. Allen stated that with Condition 21, he would have to get an easement agreement with the property owner that owns the cemetery. If he signs the easement, they don't need to agree to the waiver. He felt the access he can give them would be better than they currently have.

Attorney Kuntz verified that it would be a waiver from the property owner to the north, and an easement from the east. Condition 21 is in the Resolution and is the easement on the east. Condition 22 would read that developer shall obtain a waiver from the Jansen property for any claims against the City relating to vacation of Outlot D. He stated that Outlot D has to come up before the final plat.

Motion by Bartholomew second by Hark to approve Resolution 18-62 INDUSTRIAL EQUITIES, LLP, relating to a Preliminary Plat and Preliminary PUD Development Plan for a one lot plat to construct a 95,250 square foot office/warehouse building for property located at Auburn Path and Argenta Trail, with the addition of Condition 22 that states that the developer shall obtain a waiver from the Jansen property for any claims against the City relating to the vacation of Outlot D.

Ayes: 4

Nays: 0 Motion carried.

C. CITY OF INVER GROVE HEIGHTS; Consider the Third Reading of an Ordinance to allow Park and Ride facilities as an Interim Use in the B-3, B-4 and P zoning Districts

Community Development Director Tom Link stated that this is the third reading of an Ordinance to allow Park and Ride Facilities as an Interim Use in the Zoning Ordinance. He stated that the second reading was approved, and no changes were made.

He stated that they are suggesting one change to the definition. That would be that the clause that pertains to the joint parking agreement be removed. Another part of the Zoning Ordinance already addresses joint parking and it was thought to have the same reference twice in the same Ordinance would be confusing, so they are suggesting that the clause be removed.

He stated that Staff is recommending approval of the Ordinance Amendment to allow Park and Ride Facilities as an Interim Use. Planning Commission also unanimously approved. He stated that if

approved, anyone that has a Park and Ride Facility would have to make application for an Interim Use Permit which would go through the Planning Commission and the City Council. He stated that the two current facilities have expressed interest in filing an application after this Ordinance is adopted.

Motion by Hark second by Perry to Consider the Third Reading of an Ordinance to allow Park and Ride facilities as an Interim Use in the B-3, B-4 and P Zoning Districts.

Ayes: 4

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

City Administrator Joe Lynch stated that the Fire Station neighborhood meeting will take place at City Hall on Thursday at 6:00 p.m. All properties within 1,000 feet have been notified and they will have an Open House type format to look at the layout and then have a brief presentation by the Architect, and the Fire Chief. There will be an overview and then they can answer any questions.

9. EXECUTIVE SESSION:

City Attorney Tim Kuntz stated there is a Minnesota Statute Stat. § 13D.05, Subd. 3(c)2 & 3: which allows the City Council to go into a closed-door Executive Session for a discussion of offers and counter offers relating to the purchase of real estate. The City Council is being asked to go into a closed-door session pursuant to that Statute for the reasons given to consider offers, counter offers, and non-public appraisal data with the following three properties:

Executive Session Pursuant to Minn. Stat. § 13D.05, Subd. 3(c)2 & 3:

Discuss Doffing Ave. Property Acquisition Related to Heritage Village Park for Property Located at:

- i. LSS Properties LLC - 6455 Doffing Ave - 20-36500-32-110**
- ii. Hay – No address - 20-36500-31-050**
- iii. Kramer – 4301 64th St 20-36550-31-070**

Attorney Kuntz stated that if the Council wants to proceed into Executive Session, they must make a motion to that effect for the reasons he outlined above.

Motion by Hark, second by Perry to move into Executive Session.

Ayes: 4

Nays: 0 Motion carried.

10. ADJOURN: The meeting was adjourned at 7:55 p.m.