

INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, SEPTEMBER 11, 2017- 8150 BARBARA AVENUE

1. CALL TO ORDER and 2. ROLL CALL

The City Council of Inver Grove Heights met in regular session on Monday, September 11, 2017, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m. Present were Council members Bartholomew, Hark, Perry and Piekarski Krech; City Administrator Lynch, City Attorney Kuntz, Community Development Director Link, City Clerk Tesser, Parks and Recreation Director Carlson, Finance Director Smith, Public Works Director Thureen, City Engineer Kaldunski, and Fire Chief Thill.

3. PRESENTIONS: Mayor Tourville commented that there were no presentations but wanted to mention 9/11 and the impacts that event had on citizens, cities, police, fire, EMS and volunteers.

4. CONSENT AGENDA:

A. i. Minutes August 21, 2017 City Council Special Meeting Minutes

ii. Minutes August 28, 2017 City Council Meeting Minutes

B. Resolution 17-163 Approving Disbursements for Period Ending on September 7, 2017

C. Consider Pay Request No 2 – Bid Package 1 – East Rink Floor Project – City Project 2017-05

D. Consider a Resolution 17-164 Approving the Amended Feasibility Report for City Project No. 2015-09D – Broderick Boulevard Reconstruction

E. Resolution 17-165 Receiving Professional Services and Accepting Proposal from Bolton & Menk for City Project No. 2018-02 – 80th Street Sanitary Sewer Improvements (Robert District)

F. Consider Approval of Resolution 17-166 for the Funding of the Acquisition of 6940 and 6950 Dixie Avenue

G. Personnel Actions

Motion by Bartholomew, second by Hark, to approve all items on the consent agenda.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

Deb James, 1675 Upper 55th E. she asked about plans on expanding 55th Street. She asked about the effect of the streets expansion on the residents. Mayor Tourville asked for Thureen to touch base with the resident. Thureen stated the feasibility study results will be discussed in October/November and neighborhood meetings regarding the street improvement will begin in the beginning of the year.

Ted Nelson, 10399 Barnes Way thanked the council for helping with his complaints regarding traffic. Mayor Tourville discussed Dakota County's interest in regard to the illegally hauling of truck loads and speeding. The resident stated that it has made a huge difference.

6. PUBLIC HEARINGS :

A. Continuation of the Public Hearing and Third and Final Reading on Franchise Fee Ordinances 1339, 1340 and 1341

Finance Director Smith summarized the item. This is a continuation of the hearing. She stated that changes from the first reading included a reduction to zero for city owned street light fees. She stated at the second reading there was a question about changing the percentage of large commercial and industrial businesses to a lower fee. Smith stated the impact would be \$3,500 annually. She stated changing this would mean going from a flat fee to a percentage therefore staff recommends the fee

structure to stay as presented. She stated staff recommends approval of the three franchise fee ordinances. She stated Xcel and Dakota Electric have been apprised of all updates as of today's date.

Councilmember Bartholomew asked if the policy in place earmarks the funds to the Pavement Management Plan (PMP). Smith stated the intent from the financial perspective is to surrogate the funds. Council will provide direction on use of those funds.

Loren Shavers, 1320 105th Street East, he asked for a summary on the terms of the franchise fee and why it was implemented.

Mayor Tourville stated it's a unit fee for all users of electric and gas. He explained the major street projects that combination federal, state and county roadways along with city projects and how PMP doesn't have the funds to support these improvements. He stated the franchise fee will offset the assets and have all citizens pay their general share for the federal, state and county highway improvements. Shaver stated he doesn't like fees, and stated that it's a tax.

Councilmember Piekarski Krech stated not everyone that is using our roads are paying for the streets. The franchise fee will require that if they don't pay property taxes now users of electric and gas will now pay their fair share towards the roads.

Mayor Tourville discussed that the council's past discussions began five years ago and additional sales tax was off the table due to the legislature.

Smith stated that information is on the website and allowed the opportunity to ask questions and provide input to the city. There was one inquiry that stated they didn't support it.

Gary Calton, 6371 Dawn Ave E. He stated it's a tax and not a fee. He discussed that lack of control and that the fees will keep increasing.

Mayor Tourville stated the title of franchise fee is not selected by the city. It's an official name that comes from the state statute.

Calton stated his road needs to be repaired and the streets in his neighborhood look like a slum. Mayor Tourville stated that Thureen is in charge of street projects and recommended reaching out to Thureen to find out when their street is scheduled to be fixed.

Councilmember Piekarski Krech advised the neighborhood to sign a petition. She stated that will move the process forward faster because then the city council knows there won't be difficulty with the assessment costs.

Councilmember Bartholomew stated the city needs \$4M to fix city roads. He stated if the levy increases then only property owners are required to pay. The franchise fee will allow us to generate a closer amount for street improvement costs.

Dick Larson 738 Angus Ave. He asked about provisions of the franchise fee expiring. Smith stated the sunset date is June 30, 2029. She stated the timeframe is alignment with the Xcel and Dakota electric contract with the city.

Councilmember Bartholomew stated the franchise fees can be eliminated at any time. Larsen asked that funding be separated from the budget unlike normal taxes. He discussed Dakota County's wheelage tax. Larson asked why we can budget and propionate funds appropriately instead of adding a franchise fee.

Councilmember Bartholomew explained to budget for the funds would require the city to increase the levy. We are looking at franchise fees to generate \$1M. The council discussed the positives of a franchise fees vs. increasing the levy.

Mayor Tourville stated franchise fees in most cities don't dedicate funds to anything specific but the city has dedicated them to street improvements. Larsen commented on the communication and that he wasn't communicated with regarding the fee. The council discussed the franchise fee communication plan and how the city spread out the readings throughout the months to gather more public input.

Larsen asked about the monthly amount calculated. Councilmember Piekarski Krech stated the amount is a flat fee and the fees will be the same monthly. Smith went through the calculation of all the amounts from residential and businesses. She stated that Xcel and Dakota electric helped calculate the amount since a lot of the information is private and protected because it's proprietary. Larsen asked about future fee adjustments. Smith stated that the ordinance would need to be changed if the amount changes.

Rachel Smith, 7182 Angus Ave. she asked about making stormwater fees be combined with the franchise fee. Mayor Tourville stated this is an electric/gas fee. He stated that the city is not in charge of the billing for Xcel and Dakota electric due to proprietary and private information.

Motion by Piekarski Krech second by Perry to close the public hearing.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Hark stated we are being fiscally responsible to fix our infrastructure. He stated this helps us a little but it will make a difference. He stated the monies collected will go into a fund. We are using the money to make the street better. Councilmember Bartholomew stated the fee is earmarked to PMP. He stated it's the city's responsible to provide services, protection and infrastructure.

Motion by Bartholomew second by Hark to approve the Third and Final readings of the Franchise Fee Ordinances 1339 (Dakota), 1340 (Xcel Electric) and 1341 (Xcel Gas).

Ayes: 5

Nays: 0 Motion carried.

The council directed staff to put the final ordinances for the franchise fee on the website and to keep the information current on the website.

7. REGULAR AGENDA :

I. FINANCE:

- A. CITY OF INVER GROVE HEIGHTS; Consider Resolution Adopting the Proposed Tax Levy 17-167 for Pay 2018, Adopting the Proposed 2018 Budgets Resolution 17-169, Adopting the Proposed Watershed Management Taxing District Tax Levies for Pay 2018 Resolution 17-169, and Set the Date and Time for the Regularly Scheduled Meeting where the Budget will be Discussed**

Finance Director Smith stated the preliminary levy must be certified to the County before September 29, 2017. She discussed the increases of expenditures and market value 0.9% and increase of .11% to the general levy. She discussed how the city is decreasing the dependency on the community host fund. She stated the debt service is down \$260K with a levy increase of \$2M. She summarized the documents provided to the council.

She illustrated on Exhibit F the tax comparison 2017 vs the 2018 city taxes only and base budget plus additions. She went over the mean vs. the median and the tax impacts for residential and businesses. She stated the council can set the levy tonight but cannot increase the levy after this meeting. She stated the proposed budget approval is scheduled for December 11, 2017.

Councilmember Hark stated that they are voting for the levy tonight but it cannot go higher. He stated the council will consider the budget amounts and work at decreasing the amounts.

Mayor Tourville stated that this process on the budget has been the same for many years. He stated that additions will need more information and details.

Councilmember Piekarski Krech stated that additions are already included in the amount of the budget and doesn't mean more additions.

Motion by Bartholomew second by Piekarski Krech to approve Resolution Adopting the Proposed Tax Levy 17-167 for Pay 2018, Adopting the Proposed 2018 Budgets Resolution 17-169, Adopting the Proposed Watershed Management Taxing District Tax Levies for Pay 2018 Resolution 17-169.

Ayes: 5

Nays: 0 Motion carried.

II. COMMUNITY DEVELOPMENT:

B. JOE LEVI; Consider a Resolution 17-170 relating to a Conditional Use Permit to allow sheet metal siding on an accessory structure on property located at 8803 Inver Grove Trail

Community Development Director Link introduced the item. He stated the applicant will like to have a sheet metal siding on an accessory structure. He stated this will need a 4/5th vote. The building complies for setbacks and impervious surface and the criteria for a condition use permit (CUP). He stated Planning staff and Planning commission approved the CUP. He stated a neighbor sent a letter in support of the siding.

Joe Levi, 8803 Inver Grove Trail, said he doesn't have any issues with what is being presented and is working with engineering on the drainage plan and excavating plan.

Councilmember Hark asked what color is the sheet metal. Levi responded earth brown is the roof and white sand sides

Motion by Hark second by Perry to approve Resolution 17-170 relating to a Conditional Use Permit to allow sheet metal siding on an accessory structure on property located at 8803 Inver Grove Trail.

Ayes: 5

Nays: 0 Motion carried.

III. ADMINISTRATION:**C. CITY OF INVER GROVE HEIGHTS; Consider Bow Hunting Property Exception Requests**

Ally Hillstrom City Government Intern summarized the three applications received for the property exception requests. She illustrated the areas on the map. She went over the process of applying for the property exception including the proficiency test requirement. She reviewed the bow and arrow ordinance. She went over the acreage requirement and family member permission requirement. She stated as part of the ordinance the council is given authority to approve individual parcels for permissible hunting areas. She stated the approval expires annually on December 31st.

City Administrator Lynch stated that staff has denied the applications because they are not in the permitted area of the map and they do not meet the buffer setbacks as required. But exceptions from the city have been granted in the past. He stated the council has the authority to grant exceptions.

Jim Krech 2565 62nd Street E, applicant applied for exceptions at 2565 and 2585 62nd Street E and 2615 62nd St. She went over the amount of deer taken in the last three years. He stated that one buck is only allowed but we can hunt as many doe(s) as we want. He stated there is a deer problem and the hunt has been successful.

Thomas Brooks, 352 Park Lane in South St. Paul, he stated he will be the hunter on the property located at 8345 Delaney Cir E with owner Robert Murphy. He described the property. He stated there is 150 feet drop off into a wetland. He stated he has 32 years of bow hunting experience. He stated neighbors were asking him to help manage the deer problem in the area. He stated the unrestricted area is 100 yards from the property. He stated there are no trails and everything is downhill.

Rob Illtetschko, 8920 89th Ct E. he stated they harvested one deer and it was deemed a successful season.

Councilmember Bartholomew stated its important to do this service and keep the deer population down to a manageable amount. He stated he supports all three applications. Mayor Tourville stated he doesn't have an issue with the three applicants. He stated deer can cause accidents and this keeps the deer population down. He stated the council is granting a privilege.

Tourville stated the city doesn't allow deer feeding. Councilmember Hark stated that one mention was nine that were taken and supports this permit.

Motion by Bartholomew second Hark to approve all three property exceptions at 2565 and 2585 62nd Street E and 2615 62nd St, 8345 Delaney Cir E. and 8920 89th Ct E. A resolution will be drafted to include all three applications in one resolution. The resolution will be on the following meeting's agenda.

Ayes: 5

Nays: 0 Motion carried.

City Administrator Lynch stated that the approval of the 8345 Delaney Circle includes a non-property owner hunting on a property that doesn't allow for hunting due to the size.

D. CITY OF INVER GROVE HEIGHTS; Consider Second Reading of Ordinance to repeal Title 10, Chapter 5, Section 11: Predatory Offender Residency

City Attorney Kuntz stated the first reading of this ordinance was held on August 28, 2017. At that time, the council directed them to bring back information on an exception to the restriction which would be to add the language a residence where certain relatives of the offender also resided. Kuntz stated cities in

Dakota County that do not have the resident restriction are Burnsville, Lakeville, Eagan, Mendota Heights and Northfield do not have a predatory offender residency restriction. He stated there are six cities that do have a restriction those are Apple Valley, Farmington, Rosemount, Hastings, West St. Paul and South St. Paul, of those six, four of them have identified a family residency exception where if the residence is occupied by a family member it would be an eligible place for the offender to reside. The description of the family members was discussed and is outlined in the memo. Kuntz stated that the memo mirrors the same language that the state uses for licensed daycares and schools.

Lynch presented the map, and included daycares and educational centers. He illustrated the recent changes to the map.

Kuntz stated the prohibited areas changed because the state has a different licensing description so all were identified and added to the map.

Councilmember Piekarski Krech asked about legal liability if any for non-licensed home daycares. Kuntz stated there is no liability for the city. He stated the only way to identify them is for them to come forward. The city doesn't have liability for not identifying them. Tourville stated child-care licensing is done through the county and the state.

Kimberly Cleary, 6361 Crosby Ave. she asked the city to include bus stop areas as restricted areas.

Councilmember Piekarski Krech stated that they have to be allowed to live somewhere and if we don't allow them to live anywhere we will have legal suits. She stated then they will be able to live anywhere. She stated there is a fine line.

City Administrator Lynch stated there are two paths that cities choose: the resident restrictions or the local distances from daycares, schools etc. He stated that 90% of the cities have chosen residency restrictions. Lynch stated cities have not approved distances because of the legal uncertainties. He stated groups representing sexual predators can challenge the cities on these restrictions.

Councilmember Piekarski Krech stated if we make it too strict we will not win in court then we will lose control. Resident Cleary stated she wanted more distance from the public areas. Cleary stated what do we do if some family member chooses to live near a school and daycare and allows a sexual predator to live with them.

Councilmember Piekarski Krech discussed the importance of the stability factor for sexual predators. She discussed the advantages of the community knowing what the sexual predator looks like. Resident Cleary stated she is concerned with the distances these people can be from public places and young children. Tourville discussed the importance of public input. He discussed that level III predators are watched by police and have to abide by the law. He stated level I and II are the ones that aren't identified. Cleary asked if staff can add bus stops to the map. Staff discussed the timing issue with approving the ordinance and the expiration of the temporary ordinance currently in place. Lynch expressed concern over mixing the purposes between residency restriction and local but referred to the city attorney. Tourville asked that city staff provide the ordinance and map to the school district for input.

Jessica Staples 6460 Craig Ave. she stated she's been a resident less than a year. She stated a predator moved in to her neighborhood and moved out. She stated this predator has tried to move back. She stated the house is only four houses down from her family and their home. She stated her daughter is the same age as the second victim that this predator hurt. She stated he reoffended. She asked that the city council not allow for the residency restriction so this person does not move in by her family.

Interim Chief Folmar stated that the Department of Corrections is the one who stated putting them with family is the most stable environment for these predators. Folmar stated the issue with predators is that they are in and out of these homes. Folmar stated he has not received word that this particular predator is

moving back to Inver Grove Heights. Resident Staples stated the last time the predator moved in the residents only found out two days before. Interim Chief Folmar stated they are not given advance warning. Resident Staples stated she is asking for the resident restriction exception to be denied. She stated she doesn't understand why they would approve the ordinance if there is a residency restriction.

Lynch stated that the first reading didn't have the residency restriction but on the council's direction it was added to the ordinance. Lynch stated that the city did hear from the Department of Corrections and stated that these people can become homeless and can be in your community and you wouldn't know where they are because they're not registered and they're a transitional population.

Lynch stated that the council could approve the second reading as the final so the ordinance is approved. He stated we can modify afterwards. The advantage would be to decrease the gap from the temporary ordinance to this ordinance. Tourville stated he didn't see the advantage of doing that.

Councilmember Piekarski Krech stated she thought it didn't have to be published to be effective. Kuntz responded that it has to be published to be effective.

Kuntz stated the question is does it become effective upon date of publication or 5 days after publication.

Councilmember Piekarski Krech stated Eagan doesn't have restrictions for predatory offenders. She stated she doesn't understand why the push to get the ordinance approved needs to be done quickly. She stated she is most worried about whether or not this will hold up in court.

Tourville stated he wants to follow the process. He stated this is a sensitive issue. He wants a very informed public. Councilmember Hark stated he is concerned with the gap of the ordinance and the publication. He stated the gap exists. He discussed that the court hasn't decided on these types of ordinances. Councilmember Piekarski Krech expressed her concern with the ordinance if the resident restrictions exception was removed.

Rachel Smith, 7182 Angus Ave. she discussed working with kids and recommended that the schools get involved to help form a committee.

Councilmember Perry discussed her struggles with adding the resident restriction part to the ordinance. She discussed that she has young kids and was affected by what happened last year with the predator moving into the city.

Councilmember Piekarski Krech commented that the Jacob Wetterling education committee presentation changed her way of thinking. She stated the predators you should watch out for are people your children already know. She stated her biggest fear is making this too restrictive and losing the ability to not allow a predatory offender in the city. She commended the police department for visiting and checking on level 1 and 2 sexual predatory offenders. She stated checks are done 1-2 times a year and randomly throughout the year.

Motion by Piekarski Krech second by Bartholomew to move the second reading of an ordinance to adopt permanent predatory offender ordinance that includes the resident restrictions.

Councilmember Piekarski Krech stated that the residents should come to the third reading if they want to express their opinion and have input. Tourville stated that the bus stop additions will be considered.

Mayor Tourville discussed how much he got out of the Jacob Wetterling Foundation's presentation and was disappointed by the turn out and lack of participation. He stated this is the educational piece that is needed.

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Lynch updated the council on the Police Chief search and stated they have 18 candidates and closes on September 18, 2017.

A draft of the street project for the county regarding 117th/Akron for a 25-year plan. He stated the county is meeting in October and would like direction from the city.

Lynch stated the RFP Architect bids went out and six were received. He stated Fire Chief Thill would like to schedule interviews on Sept 18th at 6pm and invited councilmembers to attend. The council set the meeting for September 18th at 6pm at the Inver Grove Heights City Hall.

Motion by Piekarski Krech second by Hark the council set the meeting for September 18th at 6pm at City Hall.

Tourville discussed 117th and Akron and asked that the county and the public be open to discussing this issue in a meeting before the council approves the 25-year Transportation plan.

Tourville thanked staff for being a part of the Inver Grove Heights Days.

9. ADJOURN:

Motion by Hark second by Perry to adjourn. The meeting was adjourned by a unanimous vote at 9: 06pm.