

INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, MARCH 11, 2024 - 6:00 P.M. - 8150 BARBARA AVENUE

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in regular session on Monday, March 11, 2024. Mayor Pro-Tem John Murphy called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

2. ROLL CALL:

Present In-Person: Council Members: Murphy, T’Kach, Gliva, and Scales; City Administrator Wilson, Public Works Director Connolly, City Attorney McCauley Nason, City Clerk Kiernan, Associate Planner Botten, City Engineer Merchlewicz, Finance Director Hove, Parks and Recreation Director Lares.

Remote: Mayor Dietrich

3. PRESENTATIONS: none

4. CONSENT AGENDA:

A. Approval of the Minutes of February 5, 2024 City Council Work Session

B. Approval of Disbursements, **Resolution 2024-035**

C. Personnel Actions

D. Resolution Authorizing an Amendment to the 2024 Budget of the Water Operating Fund, **Resolution 2024-036**

E. Resolution Approving 2023 Water & Sewer Cash Reserve Transfers, **Resolution 2024-037**

F. Resolution Approving 2023 Year-End Community Center Operating Transfer, **Resolution 2024-038**

G. Approval of Contract Amendment – Additional Professional Services for Heritage Village Park Phase 4 Project

H. Resolution Approving Lawful Charitable Gambling Premises Permit at Applebee’s, **Resolution 2024-039**

I. Resolution Approving Lawful Charitable Gambling Premises Permit at Los Portales Bar & Grill, **Resolution 2024-040**

Motion to approve Items 4A - 4E & 4G - 4I of the Consent Agenda by T’Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion carried.

Motion to approve the Item 4F of the consent agenda by T’Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC HEARING: none

6. REGULAR BUSINESS:

A. Dakota County Presentation on Veterans Memorial Greenway and Resolution of Support for Phase 3 Alignment

Brian Connolly, Public Works Director, introduces Tony Wotzka, Greenways Manager - Dakota County Parks Department, provided update on Veteran's Memorial Greenway, Review Phase 1 construction schedule and proposed impacts to Ridge Valley Park and an alignment modification to the greenway along 105th Street between Barnes Ave and Hwy 52.

Overview - 200-mile network of greenways connecting neighborhoods, parks, schools, community centers, and natural areas. Construction contract and construction on Phase 1, middle segment, to begin April 2024 with substantial completion by November 2024. Phase 2, Western segment, expect construction to begin in 2025/2026. Phase 3, Eastern segment, construction in 2025/2026. Provided public feedback from open houses, directly from city staff and council, and direct emails to the project team. There have been concerns about loss of property, increase in noise and crime, and speeding issues. There has also been support for the new greenway and the connections it will provide. They are continuing to address the concerns and work with the city to create a roadway that fits the needs of the city and the greenway system.

Presented to the Planning Committee in November.

- Build the trail wider and further away from the road where practical or where willing landowners would allow it
- Consider various screening opportunities between homes and road and trail
- Consider a narrower road to help slow driver speeds
- Consider a design that places enough trash containers along the route for trash, recycling, and composting
- Preferable to build a standard-width greenway trail to avoid conflicts on 8' trail or bike users on the roadway
- Make sure that the trail and boulevard are designed so that there is room for trash cans
- County could explore creating a parallel soft-surface equestrian trail
- Locating benches and waste containers strategically along the trail as well as the rail crossing

The original alignment was further to the South, where there are significant grades and slopes required were more than 6% which is not ADA compliant. This required additional private property acquisition and construction impacts. Feedback from the impacts on the Southern route led to the 105th Street alignment because of the impacts of construction and engineering challenges. 2030 and 2040 Comp Plans did include 105th Street route.

The action requested is to adopt the resolution supporting the alignment of the Veterans Memorial Greenway and allow City staff to work with Dakota County to complete design review for this segment of the Veterans Memorial Greenway, and to draft the agreements necessary with Dakota County related to the design and construction.

Council Member Scales asked if they had a picture representation of what the trail looks like in association with the road. Greenways Manager Wotzka said the bottom graphic on slide 8 is a cross section, with the least impactful for construction. Providing 11-foot lanes would be as narrow as it would get and deviating from 10-foot trails to 8-foot trails. This would limit construction on private property. It is a city road, and they would like to work with the city to develop what it will look like.

Council Member Scales asked if he knew what the current width of the road was, Public Works Director Connolly said that it was approximately 24' – 28' it's gravel and varies.

Council Member T'Kach asked if there will be utilities in the right of way area. Greenways Manager Wotzka said he believed they were all private utilities, Telecom, electric. Public Works Manager Connolly said it was outside of our service areas, no sewer or water utilities in 105th Street. A few culverts under the roadway, which would be replaced, maintained as is, or extended to accommodate the drainage needs. Council Member T'Kach asked if longer term maintenance was the County or City's responsibility. Greenways Manager Wotzka said the County would take full ownership of the trail maintenance. The road would be the City's responsibility. Council Member T'Kach asked about the Mississippi River Greenway in the East that could serve residents in the Northern part of the city. Is there any plan to bring a trail of any sort to the middle of the city? Like Barnes Ave so others in the city and the Northern part of the city could access the Greenway? Greenway Manager Wotzka said the two bookends would be the Mississippi River on the East and Mendota/Lebanon on the West. Council Member T'Kach said as the center of the city is getting more developed, it would be nice to have access to a Greenway.

Council Member T'Kach asked if it is possible to do this with a gravel road instead of a paved road. Greenways Manager Wotzka said they were constrained by the need to treat storm water and convey it to the right spots. With a gravel roadway, they are unable to get the proper space needed. Creating the curb and gutter allows them to move everything in. If gravel, the trail would have to be built outside of the roadway.

Council Member T'Kach addressed concerns of neighbors of speed. Asking if it is up to the County or City to set the speed limit on that road. Greenways Manager Wotzka said it was up to MNDOT, the road is designed to accommodate a safe speed of travel. They would work with the city to design the road. Public Works Director Connolly said the speed limit would be set after a speed study by MNDOT, their expectation would be the design speed of 30 MPH.

Public Comments:

Mike Janssen – 2785 104th Ct E – presented opposition.

Ricardo Berry da Francesca – 3175 105th St E – presented support.

Brenda Sabistina – 10380 Brenta Ave – presented opposition.

Jerry Jeffries – 3250 105th St E – presented opposition.

Marty Conzemius - 10450 Brent Ave – presented opposition.

Marilyn Weis – 2846 104th Ct E – presented opposition.

Maddie Janssen – 2785 104th Ct E. – presented opposition.

Motion to accept emails into record by Scales, second by Gliva.

Ayes: 5

Nays: 0 Motion carried.

Council Member Murphy had a question about the routes and the meetings that were held and the environmental impact. Greenways Manager Wotzka explained that 117th was not put into the analysis due to the deviation of the Greenway standards and the goals for the Greenways. 117th does not connect schools or parks, it follows landfills, heavy freight traffic and a refinery. Environmental impact is what the final design will give us. With mitigation for wildlife, we have

previously created tunnels for animals and drainage features underground where they couldn't be seen. He said they held 2 open houses in 2022 focusing on the project. They were very high level in terms of design. Open house 2 went into the memorial notes. They've also presented to the cities, had pop up meetings and focus groups with homeowners they were able to contact. They also sent email blasts and would like to have additional feedback in the future.

Mayor Dietrich asked about the current alignment regarding the hill/slope/grade regarding ADA guidelines. Greenway Manager Wotzka said for 105th we don't see those issues, the route further South we had significant grading challenges. Mayor Dietrich verified that 105th was chosen because it would be ADA compliant, and they must follow those guidelines. Greenways Manager Wotzka confirmed.

Council Member Scales asked if there was a conversation about closing Inver Grove Trail at Highway 52. Public Works Director Connolly said there has been a conversation in the past about MNDOT making Highway 52 a major freeway. There are some challenges with two railroad crossings to make that work. It is his understanding that it will stay open, especially for emergency services having access to that part of town since there is no frontage road. It's not currently in the near-term plan.

Council Member T'Kach asked if it was possible to disconnect Hwy 52 from 105th and emergency vehicles could have access via a drop down so they can still get through, but cars could not. Doing this may address several concerns about growing traffic. Public Works Director Connolly said he couldn't speak to it because he has no experience in that area, but they can bring it up with the County. He would defer to the emergency services staff to see if they would have an interest in doing that. Greenways Manager Wotzka said his staff is engaging with MNDOT, they've had plans in place for improvements on Hwy 52. They will try to align the projects as much as possible. Conversations regarding ride in ride out will be had.

Motion to approve Resolution 2024-041 Supporting an amended alignment to the Veterans Memorial Greenway (Formerly the Rich Valley Regional Greenway) by Murphy, second by T'Kach.

Ayes: 4

Nays: 1 (Scales) Motion carried.

Motion to approve Resolution 2024-041 Supporting an amended alignment to the Veterans Memorial Greenway (Formerly the Rich Valley Regional Greenway) by Murphy, second by T'Kach.

Ayes: 4

Nays: 1 (Scales) Motion carried.

B. Consider a Comprehensive Plan Amendment for 6050 Cahill Avenue

City Administrator Wilson introduced Associate Planner, Heather Botten to present this item to change two parcels from MDR, Medium Density Residential to HDR, High Density Residential. This would allow a change from 8-12 units/acre to 12-35 units/acre. The plan is for 220 units. If approved, they will come forward with a final plat and public review of the site design. There would be an affordable senior building and work force housing. It would be consistent with the City's Comprehensive Plan for maintaining a balanced housing supply.

The action requested is to change the land use from Medium Density Residential to High Density Residential for a 6.3-acre parcel. The Planning Commission recommended approval of the

comprehensive plan amendment (6-0). If the comprehensive plan amendment is successful, an application for platting and conditional use permit will be required before development can occur. This later process provides for public review and comment on the actual site plan.

Council Member Gliva asked if it fell through with the developer if it would return from High Density Residential to Medium Density Residential. Associate Planner Botten said that there is a condition in the resolution that they have one year to submit the final plat. If it's not done within that time frame it would fall back within MDR. There is an inconsistency with the zoning of the property and the land use designation. It's zoned RD3, the highest density zoning, and the current medium density doesn't follow that zoning.

City Administrator Wilson reiterated that they recognize there are one or two situations in the community where land was changed in anticipation for development that did not occur and has been lingering for years. The language that gives the developer one year to get a final plat approval is to not put us in the same situation we have had elsewhere in the city.

Council Member Scales went to the open house and thought it was well received. He likes the product and that it's working with the land and the residents. He supports the change in zoning.

Public Comments:

Dustin Haviland, 5982 Cahill Ave & represent other owners at 5942 Cahill Ave - supports the comprehensive plan amendment in order for the last two single family owners the option to reclassify their properties

Council Member Gliva asked Associate Planner Botten if there was a reason it was half affordable senior housing and half workforce. Heather referred to the developer - Aaron Deidrick 1801 Connor Road B West Roseville - They try to provide a mix of housing options; it's likely going to be a phase project. They thought density wise 80 is appropriate for affordable senior housing. Workforce housing will attract more of a tenant base and have a broader audience they can serve.

Mayor Dietrich asked if Cahill space was 220 units. Associate Planner Bonner said the proposed unit is 220 units. City Administrator Wilson advised Cahill Place has 40 units.

Mayor Dietrich said Cahill Place has been a strain on public safety since they moved in, they would go to Hilltop which was understaffed at the time. She wanted some confirmation that public safety and the school district are prepared for this density and what it could bring. She listened to the resident and knows they have tried to keep the troubles they've had at arm's length. They are looking at moving, but there are people across the street in single family homes that are not moving. They've had the same experiences with just a 40-unit dwelling. Kids rolling down Cahill with no supervision, kids asking for money. She also spoke with a few of the business owners, they do not like the idea of this, some of their clients have been approached by panhandling type situations. She is in support of senior housing; they generally don't require active play areas that Cahill Place is missing. Developer Deidrick said this is different because Cahill Place provides family dwellings with 2-3 bedrooms. They aren't targeting families, seniors will be smaller houses, workforce will be studios, one bedrooms, and small portion of two bedrooms. They don't expect a lot of families to live there. Cahill Place has a vulnerable population with services. These units will be independent, this is not subsidized housing, and they are not catering to a vulnerable

population. It's a different clientele and a different product. They hire local management; Cahill is managed out of Duluth, and this is their only local property. With their current properties, they address issues head on and will do the same here.

Council Member Gliva asked if there was a reason they didn't pick multifamily market rate homes. Aaron Deidrick said his core business is affordable housing. They do some market rate but 80% is affordable. Preliminary market studies showed this was the right fit.

Council Member T'Kach said she liked the project and was also at the open house a few months ago and there was support for the project. She feels it fills a gap for workforce housing, there's a bus line nearby as well as the freeway. It makes it affordable for people to move out of their parent's house and out on their own. The developers have thought through a lot of things and likes that they're trying to keep the topography similar to how it is now. It meets a lot of the goals and kinds of projects they are trying to get communities to take advantage of. Aaron said they specialize in challenging sites and want to keep the land as natural as possible. They are 40 feet set back on the North/South line and are happy to do additional landscaping or fencing and want to make sure they're an asset to the neighborhood.

Council Member Murphy thinks it's a nice project in a nice spot and is appreciative of the senior housing. He wanted to verify if we don't have a design in a year we won't have any issues. City Attorney McCauley-Nason clarified that the submission of a final plat is required within one year. If that doesn't happen the city would still need to address the discrepancy in zoning.

Motion to approve Resolution 2024-042 Approving a Comprehensive Plan Map Amendment to Change the Land Use Designation from MDR, Medium Density Residential to HDR, High Density Residential by T'Kach, second by Scales.

Ayes: 4

Nays: 1 (Dietrich) Motion carried.

C. First Reading of an Ordinance Amending City Code Title 8, Chapter 4 Related to the Connection to Public Sewer System

Public Works Director, Brian Connolly, presented background, City Code requires a property to connect to public sanitary sewer within one year following availability to the property. Current State and County codes require regular inspection of subsurface sewer treatment systems (SSTS - or "septic systems") to verify they remain operationally compliant. Dakota County tracks and manages inspection records. City Building Inspection staff reviews the records regularly, part of building permit submittals. The City is responsible for enforcing the compliance with regulations in State, County and Local codes. There is not a similar connection requirement for properties to connect to a public water system.

The current code is from 1974, prior to several state and county code requirements governing the operation and inspection of septic systems were implemented. The connection requirement for sanitary sewer within one year has not been consistently enforced. There is an upcoming project along Argenta Trail (City Project No. 2023-09E) where sewers will be extended to four residential properties within Metropolitan Council's 2040 Municipal Urban Service Area (MUSA). Some of these properties have invested in and recently installed septic systems that are compliant

and are likely to have 15-20 years of service remaining. Requiring these residents to connect with a public sewer system and disconnect from their currently compliant system is costly to them. They're not creating issues or polluting. For properties with non-compliant systems, this code change has no impact over past connection requirements. Non-compliant systems will have one year to connect to the City sewer once available.

Key Ordinance Provisions - Compliant systems will be allowed to remain in-place without connection to the public sanitary sewer system if the system remains in compliance. If they become non-compliant, the property owner will have until the end of the calendar year after the system is found to be non-compliant to connect to the public sanitary sewer system. For current Non-Compliant Systems, if posing an imminent threat to public health or safety, they will need to connect to the public sanitary sewer system within 30 days of receiving a notice of non-compliance from the City's Building Official. If there is not an imminent threat to public health, but identified as failing to protect groundwater, they will need to connect to the public sanitary sewer system within ten months of receiving a notice of non-compliance from the City's Building Official. Compliance is defined as meeting all State, County and City statutes, rules and regulations governing the operation of an SSTS (septic systems). The City's Building official may require a compliance inspection of a septic system where extension of a public sanitary sewer system enables connection of a property to the public system to determine compliance.

Unchanged Existing Regulations are a Dakota County County-wide ordinance for SSTS: Dakota County Ordinance No. 113. City has a code section dedicated to SSTS requirements (City Code 8-4-5). New septic systems are required to be inspected by a licensed inspector and an as-built has to be provided to Dakota County. Properties with septic systems are required to receive a compliance inspection prior to the sale of the property. It needs to be performed by a private inspector certified by the MnPCA. A copy of the inspection is to be provided to the City. Non-Compliance notices will be provided by the City's Building Official where applicable.

The action requested is to consider the first reading of the ordinance included in tonight's council packet. Council may also wish to waive the requirement for 3 readings of this Ordinance.

Mayor Dietrich said this will go a long way for our community's environment long term.

Council Member Scales said it's a good thing for the community and he is in favor of waiving the 3 readings.

Council Member T'Kach asked how it might impact people with homes hundreds of feet from the new sewer. Public Works Director Connolly said as long as their system is functioning it would not have an impact on them, but if they became non-compliant, they would be required to connect to the sewer. The goal from a public perspective is to provide service where we can and protect the natural resources. We're providing an alternative for them to connect.

Council Member T'Kach also asked if they currently have a septic system and want to put in a new one, would they be permitted to do so. Public Works Director Connolly said they are permitted to use their current system as long as it is Compliant, but if they have access to public sewers, they would have to connect to it instead of installing a new septic system.

Motion to waive three reading rule by Scales, second by Gliva.

Ayes: 4

Nays: 1 (T'Kach) Motion fails.

Motion to approve the first reading of an Ordinance amending Inver Grove Heights City Code, Title 8, Chapters 4 and 5 Related to connection to the public sanitary sewer system by Gliva, second by T'Kach

Ayes: 5

Nays: 0 Motion carried.

D. Approval of Letter to Legislative Delegation Regarding Local Zoning Preemption Bills

City Administrator Kris Wilson presented a letter addressed to the two members of the Minnesota House, Representative Mary Frances Clardy and Representative Rick Hansen that represent Inver Grove Heights. It expresses the city's opposition to House File 4009 and other similar pieces of legislation proposing to remove land zoning authorization from the City and moving it to the State. The Bill requires that multifamily housing be allowed in all Commercial Districts. The Bill also requires all residential lots to be allowed to develop at least 2 units per acre. It could be closer to 6 or 8 units per acre mandated by the state.

In the letter there are five main points of opposition. The first is about allowing multifamily housing in commercially zoned areas. The City has been trying to fill our commercial areas with commercial activity and objects to that provision. Secondly, it requires cities to allow higher density in areas where we already have water and sewer pipes and streets built for a certain level of density. This may require expensive expansions at a cost to the City. The third point urges them not to require Cities to designate an area as a transit stop. If the City doesn't have a major transit stop, the City must pick a specific area in a Commercial District to serve that purpose without transit being provided. There is transit service in areas of Inver Grove Heights, but we don't have what is considered a major transit stop. Fourthly, House File 4009 prohibits public hearings and other public forums in certain areas. Requiring more things to be done and approved by staff and less done in public forums. Lastly, this is not limited to areas with Municipal water and sewer services. The largest lot that a City can require is 4,000 sq ft or one tenth of an acre. This would be a huge change and it would be hard to envision how it would be served by Municipal water and sewer.

The Senate released a language this afternoon; similar to House File 4009 but differs in a few ways. The Senate language does not prohibit the public hearings that the House bill does. It does not mandate a major transit stop. It includes Cities from prohibiting emergency housing (shelters for unhoused individuals). They can be prohibited in Residential, Agricultural, or Heavy Industry zones. They would have to permit it in Commercial zones.

The Senate language also prohibits Cities from requiring creation of a Homeowner's Association. Many responsibilities fall on Homeowner's Association regarding open spaces and managing spaces. We would need to look at the impact of not being able to require a Homeowner's Association. The Senate does define multifamily housing as a building of eight residential units or more.

Administrator Wilson suggests if approval of this letter, a similar letter be drafted to the Senators for the Agenda on the following weeks meeting.

Mayor Dietrich agrees with Administrator Wilson to craft a letter to be sent to the Senate as it is moving quickly.

Council Member Murphy asked for timing on the letters. Administrator Wilson advised the letter is dated with tomorrow's date and is prepared for Mayor Dietrich's signature and they could send the letter for the Representatives tomorrow.

Council Member T'Kach asked to repeat the Homeowner's Association requirement in the Senate Bill. Administrator Wilson repeated that the Municipality cannot condition approval of residential developments on creation of a Homeowner's Association. It is new language, and it raises questions.

Council Member Murphy asked if the normal Homeowner's Association responsibilities could fall back to the City and increase costs. Administrator Wilson was unsure if it would change any current HOA, but it may impact future buildings. Council Member Murphy's concern would be Homeowner's Association contract renegotiations.

Council Member Gliva asked to repeat the emergency housing. Administrator Wilson said the Senate language includes language that says the City cannot enact an ordinance that prohibits emergency shelter facilities, but they can prohibit them in areas zoned for Residential, Agricultural, and Heavy Industrial zoning. The provisions are new, and we would need to do a thorough review of what our zones permit.

Council Member Scales agrees with sending the letter tomorrow. Question about acreage, 1/10th of an acre, it doesn't matter if it's city sewer and water or well and septic, if someone has 5 acres, they could put 50 lots on it? Administrator Wilson verified with a lobbyist with the League of Minnesota Cities that there was no current provision about requirements for applying to areas with municipal water and sewer. At the City Planner level, it brings up more concerns that those writing the legislature would not think through.

Council Member Murphy appreciates Administrator Wilson writing the letter and supports sending the letter and drafting one for the Senate.

Council Member T'Kach has heard from house authors that are hearing about House File 4009 and have been working hard to make some changes to the concerns we've addressed. Minnesota has a housing and affordability problem that can't be dealt with at a local level. It is an attempt to create consistency across the board. We should do our fair share to support the effort, but the bill will continually evolve. She has heard from residents about the cost of housing and the lack of affordable housing here. Without better access to housing for young workers, our local economy is going to suffer. The Chamber of Commerce, housing developers, business organizations, and a lot of other groups support this bill. We need housing for teachers, for fire fighters, who need to be in the community and may not be able to afford to live here with those jobs. She believes it's premature to send the letter and would like to wait one or two weeks and does not support the City voting against any and every bill that proposes these types of legislation.

Council Member Murphy can't support anything that takes away local control. Not all cities are the same and have different needs. He agrees there is a housing crisis and is supportive of a variety of housing in Inver Grove Heights, but local control needs to decide what is needed.

Council Member Gliva asked what the City's fair share is and who should decide that. The second agenda item just approved a medium density to a high-density housing project. For someone at the State level to tell the City to fill Commercial space with multifamily housing is a complete overreach.

Council Member Scales said he doesn't believe the State getting involved will help.

Mayor Dietrich has spoken with other Mayors in the area, feels it's imperative to send the letter.

Council Member T'Kach is happy to hear the Senate version does not block public forums.

Motion to Approve Letter to Legislative Delegation regarding local zoning preemption bills by Gliva, second by Scales.

Ayes: 4

Nays: 1 (T'Kach) Motion carried.

7. PUBLIC COMMENT:

Kelly Kayser - 1953 59th Court E - presented support for the Letter to Legislative Delegation.

8. MAYOR AND COUNCIL COMMENTS: none

6E. CLOSED SESSION Pursuant to Minnesota Statute 13D.05, Sub. 3B (Attorney - Client Privilege)

Motion to Move into Closed Session pursuant to Minnesota Statute 13D.05, Sub. 3B to discuss the matter of *IN RE: AQUEOUS FILM-FORMING FOAMS PRODUCTS LIABILITY LITIGATION, AFFF* Multi-District Litigation No. 2873, and potential PFAS-related litigation and class action settlements by Scales, second by Gliva

Ayes: 5

Nays: 0 Motion carried.

Motion to move out of Closed Session and back into open session by Scales, second by Gliva.

Ayes: 5

Nays: 0 Motion carried.

9. ADJOURN:

Motion to adjourn at 8:44 p.m. by T'Kach, second by Murphy.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Secretary Sara Lyons.