

INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, July 22, 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, July 22, 2024. Mayor Dietrich called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

2. ROLL CALL:

Present In-Person: Mayor Dietrich; Council Members: Murphy, T’Kach, Gliva and Scales
Staff Present: City Clerk Kiernan, City Administrator Wilson, City Attorney Nason, Community Development Director Ziemer, Fire Chief Thill, Fire Marshal Oswald, Police Chief Chiodo, Finance Director Hove and Assistant Finance Director Hosszu.

3. APPROVAL OF AGENDA:

Administrator Wilson asked to remove 5F from the consent agenda to be discussed by Council.

Motion to approve amended agenda by Gliva, second by Scales

Ayes: 5

Nays: 0 Motion carried.

4. PRESENTATIONS:

5. CONSENT AGENDA:

- A.** Approval of the Minutes of the June 24, 2024, City Council Meeting
- B.** Approval of the Minutes of the June 25, 2024, Special City Council and Advisory Commission Work Session
- C.** Approval of the Minutes of the July 8, 2024, City Council Meeting
- D.** Approval of Disbursements, **Resolution 2024-139**
- E.** Personnel Actions
- F.** Ordinance Amending the Southeast Quadrant PUD to allow for a beauty school located at 5786 Blackshire Path, **Ordinance 1481 & Resolution 2024-0145**
- G.** Authorize Request for Proposal (RFP) for Professional Auditing Services for Fiscal Years 2024-2028, **Resolution 2024-140**
- H.** Contract Award for Fire Department Station Location Study, **Resolution 2024-141**
- I.** Resolution Providing Municipal Concurrence of Dakota County State-Aid Highway System Revisions - 117th Street, **Resolution 2024-142**
- J.** Resolution Approving First Amendment to the Joint Powers Agreement (JPA) for the Criminal Justice Network (CJN), **Resolution 2024-143**
- K.** Resolution Authorizing Re-Application for the Minnesota Department of Public Safety Grant Funded DWI Officer, **Resolution 2024-144**

Motion to approve consent agenda items 5A - 5E, 5G - 5K by T’Kach, second by Gliva.

Ayes: 5

Nays: 0 Motion carried.

Administrator Wilson said Item 5F is an ordinance to amend the southeast quadrant Planned Unit Development (PUD) to allow a beauty school at 5786 Blackshire Path. This development has a very specific PUD and requires an amendment to the PUD. When reviewing the agenda they did not include a Summary Publication Ordinance. There were also a few typographical errors in the ordinance. The sustenance of the ordinance has not changed. Staff requests Council to adopt the ordinance as presented.

Motion to approve item consent agenda item 5F - Ordinance 1481 and Resolution 2024-145 by Scales, second by Murphy.

Ayes: 5

Nays: 0 Motion carried.

6. PUBLIC HEARINGS:

A. Temporary Premise Expansion for On-Sale Liquor License - Mississippi Pub

Council Member Gliva said due to her business interest in the Mississippi Pub she will not be taking part in the discussion or voting.

Clerk Kiernan said Mississippi Pub has applied for a one day premise expansion for on-sale liquor licenses for July 24 for the Live on the Lake event, August 13 for Grooves and Food Live and Music event and September 10 for Grooves and Food Live and Music Event. The expansion laws allow them to sell liquor beyond the normal boundaries of their liquor license for a defined date and time frame. The site map includes areas of the pub's parking lot where liquor will be served during these events. Staff recommends holding a public hearing and approving the licenses for July 24, August 13, and September 10.

Motion to close public hearing by Scales, second by T'Kach.

Ayes: 5

Nays: 0 Motion carried.

Motion to approve a Temporary Premise Expansion for On-Sale Liquor License for July 24, August 13, and September 10, 2024 by Scales, second by Murphy.

Ayes: 4

Nays: 0

Abstain: 1 (Gliva) Motion carried.

7. REGULAR BUSINESS:

**A. Appeal of Compliance Order and Request for Variance to the Fire Code Board of Appeals
FIRE BOARD OF APPEALS - RESOLUTION 2024-01**

Fire Marshal Oswald presented this item. The request is for variance for fuel storage tanks for Total Construction. The property is near Hwy 52 and north of 117th St. the zoning in the area is I-1 and I-2. The addresses 10608 and 10620 Courthouse Blvd are both used for the parcel (PID 20-02700-50-020). The property is currently zoned I-1, Limited Industry. After a recent fire inspection, it was noted that they have too much fuel stored on the property for an I-1 zoning district according to Fire Code (City Code 9-2-4). The owner is requesting a variance from this IGH Fire Code in order to keep existing fuel storage tanks on the property.

IGH City Code - Title 9, Chapter 2 Fire Prevention Code - 9-2-4: Limits for storage of certain hazardous materials:

- A.** Storage of flammable or combustible liquids in outside aboveground tanks is prohibited in all zoning except that the storage of flammable or combustible liquids in above ground storage tanks is permitted as follows:
1. In the I-2 zoning districts.
 2. In the A, B, P, and I-1 zoning districts, one approved tank not exceeding 500 gallons' individual capacity or two tanks in an approved dual tank system not exceeding 1,000 gallons' aggregate capacity

In the I-1 district fuel storage and dispensing is permitted provided it is not for retail sales, except propane and the fuel is used exclusively by the owner. Total Construction is following these guidelines. The Fire Code for the I-1 District allows one tank not exceeding 500 gallons' individual capacity or two tanks in an approved dual tank system not exceeding 1,000 gallons' aggregate capacity. Total construction is out of compliance with this code. The property has five tanks with 3,500 gallons total capacity.

Previous Council action for Bulk Fluids:

- Bulk Fluid produces and distributes windshield washer fluid - wanted to relocate to IGH and build new
- Was seeking to rezone land at 8245 Argenta Trail from I-1 to I-2
- Proposed storing flammable liquids outdoors in above ground storage tanks:
 - One 20,000 gallon tank for methanol
 - Two 9,000 gallon tanks plus one 2,500 gallon tank for windshield washing fluid
- Bulk Fluids did not meet the standards for I-1 zoning district
 - The exemption is only for outdoor storage of fuel
 - Bulk Fluids was seeking to store methanol
 - Location of property - closer to residential neighborhoods

There is an option to appeal and request an exception. If the variance is granted, staff is recommending it be conditioned on the following requirements:

- All tanks must be brought into compliance with all applicable codes and standards with the exception of the limitation on the size of fuel tanks found in Section 9-2-4 of the City Code.
- All non-used diesel tanks must be removed if no longer used.
- No new or additional tanks can be added to the Property.

- The fuel types within the tanks must remain the same.

Items identified to bring the tanks into compliance (if variance is granted):

- Tank protection shall be provided
- Provide an emergency disconnect switch (cannot be within 20 ft. of dispensers, cannot be more than 100 ft. away, shall be labeled and between 42 and 48 inches in height)
- A minimum 2A-20B:C fire extinguisher shall be within 75 ft. of dispensing stations
- Dispenser operating instructions shall be posted
- Emergency procedure signage shall be posted
- A telephone or other approved means shall be installed for notification of the fire department in case of emergency
- Tank dispensing operations cannot be within 10 feet of combustible exterior walls or overhangs
- Dispensing nozzles cannot reach within 5 ft. of buildings
- Dispensing hoses shall not be more than 18 ft.
- Emergency breakaway devices are needed
- Remove extension cords being used as permanent wiring, pumps shall not be powered with temporary wiring

Depending on what tanks Total Construction decides to remove, some of the above issues may be resolved without further action. The owner told staff that the existing fuel storage tanks are used exclusively by their business as the property owner and no retail sales of fuel is allowed. The existing tanks were already on the Property when it was purchased in 2006. There are no residential areas boarding the property and the property is 18.8 acres.

The next steps are to hear from the applicant/property owner. Council will be able to ask questions to both the applicant and staff and then make a decision on the variance request.

Bill Krech - 10608 Courthouse Blvd (business address) - said they purchased the property around 2006 and the tanks were already on the property. The reason they have multiple tanks is they have on-road diesel, off-road diesel and gasoline stored there. Two of the tanks are diesel fuel, one is off-road diesel, and one is gasoline. The fifth tank is not in use. They use the location as their mobile equipment location. All of their equipment is fueled there. The use of the fuel is for all of their construction projects and equipment. They cannot fuel the equipment at a regular gas station. The tanks are filled approximately every two weeks during the summer and once a month in the winter.

Krech said they reviewed the updates that the fire marshal requested, and they accept them. They have not proceeded with any of the updates because they did not know if the variance would be approved.

Council Member T'Kach asked Krech if they are planning to remove the unused tank.

Krech said they will remove the unused tank.

Council Member T'Kach asked if the tanks are permitted by the PCA for spill containment.

Krech said there is nothing permitted by them, but they are inspected by the environmental group. The tanks are double-walled tanks, and the three main tanks have barricades and protection around them. They have had no issues with their EPA inspections.

Council Member T'Kach asked if it was the County that inspects them.

Krech said yes, it is the County.

Council Member Murphy asked Fire Marshal Oswald to provide the overview of the Bulk Fluids information again.

Fire Marshal Oswald said they were trying to store methanol in a 20,000 gallon which is not allowed. The I-1 zoning district does not allow methanol to be stored.

Council Member Murphy asked to confirm that fuel was permitted in the I-1 zoning district.

Fire Marshal Oswald said the zoning code for the I-1 district allows fuel storage as long as the owner exclusively uses it. The issue for Total Construction is whether the volume is over what is permitted in the Fire Code.

Council Member Gliva asked if they think they may have similar issues in the area.

Fire Marshal Oswald said they have two other properties with similar issues. One has already been resolved and switched from a 1,000 gallon tank to a 500 gallon tank. The other property has been advised of the limits and given a timeframe to become compliant. Staff does not know if they are going to resolve the issue on their own or request a variance.

Mayor Dietrich asked what the timeframe is for the other property to become compliant if a variance is not requested or approved.

Fire Marshal Oswald said that he does not have that information with him, but it is typically 90 days.

Administrator Wilson said they would like Council to act by either approving or denying the resolution. The Council can move the resolution with amendments.

Mayor Dietrich asked if Council would have time to revisit the verbiage in the variance at a later time.

Administrator Wilson said they could give directions to staff to come back with a resolution that Council agrees with.

Council Member Gliva asked if their ordinance is too strict and should be changed.

Attorney Nason said staff would like to revisit the issue of the language regarding the tank size being in the fire code and not in the zoning. It would be beneficial for tank size to be included in the zoning ordinance. This is an area that could use some revision.

Council Member T'Kach said she has concerns regarding how many places in Inver Grove Heights have outdoor fuel storage tanks of 500 gallons or more.

Fire Marshal Oswald said he does not have the numbers in front of him and it is not tracked.

Council Member T’Kach said 3,500 gallons is much higher than the permitted amount.

Fire Marshal Oswald said the State Code would permit more than that. This was an amendment to the City Code. The previous Fire Marshal said he thought the amendment was made to prevent fuel filling stations from using above ground fuel tanks. Oswald said this might be better in the zoning code and the stricter City Code may need to be reviewed.

Council Member T’Kach asked if a condition could be added to the sale of a property to require the property to comply with code when the sale is made.

Attorney Nason said if it were a land use variance it could not be. Since this is a Fire Code variance there is not anything in the Fire Code that would prevent it from being added. Verbiage saying that all of the existing tanks except for one 500 gallon fuel tank must be removed from the property if the property ownership changes could be added to the resolution if that is the concern.

Council Member Scales said knowing the size of equipment that is fueled at the property, one 500 gallon tank does not do a lot. He thinks they are overly stringent.

Council Member Murphy said he agrees with Council Member Scales and understands why this is different than the decision they made in September 2023. The information that they are more stringent than the State is helpful, and he does not have an issue moving the resolution forward.

Council Member Gliva said she does not have any issues with moving the resolution forward but thinks the code should be updated if they will continue to have requests for a variance and asked how long it would take to draft a change.

Administrator Wilson said staff will look at the code and see if the requirement is necessary and reasonable and if it is in the right place. They will bring a resolution back to the Council for review. It would need three readings of an ordinance before the code could be amended. Staff could likely have it prepared in one month.

Council Member T’Kach said she agrees with the path staff is suggesting. The business has been operating for years with the tanks that they have, and she does not see an issue if they need to wait six to eight weeks for staff to provide the information. She asked Fire Marshal Oswald if they would wait to enforce compliance until Council completed the review of the proposed ordinance changes.

Fire Marshal Oswald said they would be able to wait on enforcement.

Council Member Sales said he does not like the idea of waiting while they have an applicant. He wants to resolve this variance and then come back and review the code. The process could take two to three months to have this resolved.

Mayor Dietrich asked how it would affect the other business that is waiting.

Administrator Wilson said they could see a second appeal because they have already been notified that they are out of compliance.

Mayor Dietrich said she would like to see this done within 90 days.

Council Member T’Kach said she agrees so they are not under pressure to match the code to the variances given and Council should have a discussion.

Council Member Murphy said he thought they were having two conversations, one about updating the code to match the fire code and a second conversation about moving the resolution forward or not.

Mayor Dietrich asked Attorney Nason to provide the steps for the process.

Attorney Nason said tonight they need to either take action or continue this resolution to another date. There are resolutions for both approval and denial in the packet. There is another property owner that may submit a variance request, but they have no indication of whether they will or not. The Council seems to be requesting staff to review the language in the code and identify if it should be amended to add to zoning or change the size of fuel tanks permitted within the zoning districts. Staff would review proposed changes with Council for approval.

Motion to approve resolution 2024-01 of Fire Code Board of Appeals - approval of variance from order issued by Fire Inspector for property located at 10608 Courthouse Blvd by Murphy, second by Scales.

Ayes: 4

Nays: 1 (T’Kach) Motion carried.

Mayor Dietrich asked if any other action is needed from Council to direct staff to review the language in the ordinance.

Attorney Nason said it seems there is a consensus from the Council that this should be revisited from staff and the fire department staff to propose a potential change to the code.

Administrator Wilson said they did not need a motion.

B. Discussion of Potential Public-Private Partnership for a Boat Launch

Administrator Wilson presented this item. This has been discussed in the past by Council. The 2023 Legislative session made appropriation bills to different state agencies. In the bill funding the Department of Natural Resources, \$1.2 million was appropriated the first year as a grant to Dakota County for adding a public boat launch along the Mississippi River between South St. Paul and Hastings. Dakota County representatives suggested to Administrator Wilson that the County would pass the funding through to the City of Inver Grove Heights. The city did not have plans in the works for building a boat launch and does not own riverfront land that appears suitable for a boat launch. A possible public - private ownership started being discussed.

During the fall of 2023 staff made efforts to identify an example of a comparable public - private partnership and were unable to find any in Minnesota. There were challenges

identifying what the "rules" would be to use the funds for improvements to a privately-owned boat launch in return for public access.

Questions regarding a public - private partnership:

- Length of public use in exchange for funds
- Physical requirements for a public boat launch
- ADA compliance
- Public bidding, contracting and prevailing wage requirements
- Historical and archeological approvals

The State funding was carried over from 2023 to 2024. They would need to have a grant agreement in place with the state and county by June 2025. There was a meeting in July that included Council Members Scales and T'Kach, Administrator Wilson, Parks & Rec Director Lares, State Representative Hansen, Dakota County Commissioner Adkins, Joe, and Melissa Harms who currently have a boat launch and have expressed a potential interest in partnering with the city.

Administrator Wilson said she contacted the DNR for further guidance and received information regarding the length of the contract today.

- A use contract (i.e., the public / private partnership) must be:
 - "for a term that is equal or greater than **125% of the Useful Life** of the Real Property and, if applicable, Facility or such other period of time specifically authorized by a Minnesota statute, rule or session law."

When state bonding dollars are given they can only be spent on publically owned properties. These were General Fund dollars from the state and staff were hopeful that a public - private partnership was possible.

New information from the DNR:

- "Real Property" equals land with no improvement of construction
- Useful life of Real Property is 30 years
- 125% of that is 37.5 years
- A marina is a "Facility"
- Useful life of a Facility is 50 years
- 125% of 50 years is 62.5 years

The report in the packet from staff was done prior to receiving this information. It would be difficult to find a business that would be willing to allow public use while still operating their business for 62.5 years.

\$1.2 million is a lot of money but it is not likely to be enough to acquire land, design and build a boat launch from scratch. The city has a lot of other recreational needs and wants, and a public boat launch may not be a priority. The grant agreement has to be entered into with the county and state in ten months and that might not be enough time to complete the necessary steps.

Staff's recommendation is to notify Dakota County that the city does not have a means of utilizing the funding in the foreseeable future. County staff has indicated that the county would likely put the money toward a publicly owned boat launch at Spring Lake Park Reserve.

Council Member Scales said the process looks very complicated. He asked how much land the City owns on either side of the bridge.

Administrator Wilson said she did not have the size but shared a map with the property areas owned by the city and the CDA.

Council Member Scales asked what the land is like on the northern edge where Heritage Village Park is.

Administrator Wilson said she has not explored the riverfront in the area. They would need to find a way to get there. It may be a low area or a natural wetland.

Mayor Dietrich asked if the gun club was there.

Administrator Wilson said it is north of the area shown on the map. The northern most marina is south of the area Council Member Scales referred to that is owned by the City.

Council Member Scales said the project was becoming complicated but wants to know if that area would be a possibility.

Administrator Wilson said she understands the want to explore but her concern is spending too much time and costing the county an ability to enter a grant agreement with the DNR.

Council Member Gliva asked if it was possible to create a contract with the property owners that have options for renewals that would cover the 62.5 years.

Administrator Wilson said in order for the state to release the \$1.2 million it would need to have a contract for the full 62.5 years.

Attorney Nason said she agreed that the contract would have to be for the full time frame.

Council Member Murphy asked if the state required public access for 62.5 years or a longer period than that.

Administrator Wilson said they required 62.5 years.

Council Member Murphy asked if the concern with the length of the contract is all of the variables that could happen in 62.5 years.

Administrator Wilson said that is where she sees challenges. This is not a vacant piece of land that future City Councils and Directors could control what happens with the land. This is a business property, and they would need to protect against the sale or closure of the business. It would be likely to need another investment of funds in the 62.5 year period and the city would likely be expected to provide the funds.

Administrator Wilson said they do not have to make the decision tonight. Staff can look at the area. The city would need to spend money to advance the project that would not be reimbursable. A consulting engineer would need to be hired to work with the private partner

to create a list of improvements that would be needed. Before receiving the information from the DNR she was going to request funds to review a plan for a public - private partnership. This would have been similar to what was done when the grant was received for the Stone Arch Bridge redesign.

Council Member T'Kach said that she understands the need to tell Dakota County if the city will be able to use the funds and asked if staff could determine if the area was a possibility quickly.

Administrator Wilson said the next regular Council Meeting is August 12th and they could take one more look at the riverfront or complete any other research within that time. They will want to tell Dakota County at that time if they think they have a use for it or not.

Council Member T'Kach said she does not want the city to miss the opportunity but does not want it to take too long.

Council Member Scales said he would like to take another week and go out and walk the area himself.

Mayor Dietrich said she does not want to be hasty but understands a decision needs to be made quickly.

Council Member Scales said it might be something that they realize would take \$5 million to develop and it would not be worth it. He wants to know the area before walking away from it.

Council Member Murphy said he agrees that it should be looked into for another one to two weeks. He asked how much land is needed for a boat launch.

Administrator Wilson said she does not know but the City of South St. Paul has a public boat launch in partnership with the DNR. It is part of a larger parcel, but they can review that information.

Joe Harms - 2185 67th Street - said when Heritage Park Village was first discussed they proposed a public boat launch in the southern area. He said he opposed this because they have a private boat launch just north of the area and it is too close. He does not know the acreage needed.

Mayor Dietrich asked Harms if he wanted to provide any opinion on the public boat launch.

Harms said the information they received that morning was a surprise. They had expected a term of 20 to 30 years, not 62.5 years. He does not know if there is anything that could be done. A launch lift has a long life but there are parking areas and docks that would need repairing.

Mayor Dietrich asked if he wants Council to consider this for a couple of weeks so he could also consider it more.

Harms said he would be open to brainstorming over the next couple of weeks.

Mayor Dietrich said they would like staff to provide more information at the next Council meeting.

Administrator Wilson said they would provide more information at the next meeting.

8. PUBLIC COMMENT:

9. MAYOR AND COUNCIL COMMENTS:

Mayor Dietrich welcomed Jason Ziemer as the new Communications Development Director.

Council Member T’Kach enjoyed the ribbon cutting at Inver Grove Community College - Technical and Business Center. She said it will be a huge asset to the community.

Council Member Scales said the Food Truck Event was well attended and a great event. He is hoping to do it again next year.

10.ADJOURN:

Motion to Adjourn at 7:04 p.m. by T’Kach, second by Scales.

Ayes: 5

Nays: 0 Motion carried.

Minutes prepared by Recording Secretary Sara Lyons