

INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, OCTOBER 9, 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, October 9, 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, and City Engineer Kaldunski.

Mayor Tourville commented that a past firefighter had recently passed away.

3. PRESENTIONS: None.

4. CONSENT AGENDA:

- A. Approve Minutes September 11, 2017, City Council Meeting
- B. Approve Resolution **17-185** Approving Disbursements for Period Ending on October 4, 2017
- C. Approve Pay Request No 3 – Bid Package 1 – East Rink Floor Project – City Project 2017-05
- D. Approve Pay Request No 3 – Bid Package 2 – East Rink Floor Project – City Project 2017-05
- E. Approve Scheduling of Public Hearing on Development Fees
- F. Approve Scheduling of Special Meeting for Semi-Finalist Police Chief Candidates
- G. Approve Resolution **17-186** Approving Demolition Contract- 6140 Doffing Avenue
- H. Approve Final Compensating Change Order No. 7, Final Pay Voucher No. 10, Engineer's Final Report, and Resolution **17-187** Accepting Work for City Project No. 2015-09E – 47th Street Area Reconstruction and City Project No. 2015-14 – 47th Street Area Water and Sewer Improvements and Rehabilitation
- I. Approve Pay Voucher No. 1 for City Project No. 2016-01 – Stormwater Treatment for Mississippi River Discharge (78th and Concord Wet Extended Detention Basin)
- J. Approve Final Pay Voucher No. 1, Engineer's Final Report and Resolution **17-188** Accepting Work for Emergency Storm Culvert Repair under Upper 55th Street East
- K. Approve Personnel Actions

Motion by Bartholomew, second by Hark, to approve all items on the consent agenda 4A-4K.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT: None

City Administrator Lynch asked that items 7IIIE and 7IIIF be reversed in order. It was agreed to reverse the order of the items.

6. PUBLIC HEARINGS:

A. Consider Application for Commercial Kennel License at 8365 Delaney Circle, Resolution 17-189

City Clerk Tesser presented the item. She stated Robert Heller, 8365 Delaney Circle, applied for a commercial kennel license. The applicant already has more than four dogs (eight dogs which he breeds and sells) which is against city code (limit of four dogs over the age of six months) without a commercial/noncommercial license. The applicant stated they wanted to have eight dogs. Staff denied the application based on the property not meeting the following requirements:

1. A kennel must be five hundred feet from a residential dwelling and;

2. The property does not comply with the zoning requirement which only allows for a commercial kennel license in an agricultural zoning area of the City. The property of 8365 Delaney Circle is designated in the Estate zone.

An inspection of the kennel and property was completed and was found satisfactory. The applicant stated a six-foot fence would be installed to be in compliance with the ordinance. The City code does allow the applicant to appeal and Council may reverse staff's denial of the license. The applicant requested an appeal and public hearing be held. Notice was sent to properties affected within 1,000 feet. Numerous emails and letters have been received; most have been included in the Council packet. One email has been received that is in support of the license from a neighbor. There is a letter from the Pure-Bred Breeders Association in support of the license for the owner. There was a petition that was handed to the council tonight opposing the license. One additional item has been received opposing the granting of the license. Planning Staff denied the request because the property does not comply with the zoning requirement. There is a resolution before council denying the application. Currently there are no commercial kennel licenses in the city and the last commercial license found was in 2010.

Councilmember Piekarski Krech asked where the commercial kennel was located in 2010. Ms. Tesser could not recall the address. Mayor Tourville commented that he believed the previous commercial kennel was in an agricultural zone.

Councilmember Bartholomew asked if the applicant would be allowed to keep three dogs and sell the offspring is that considered a kennel? Would sales be prohibited if the applicant kept three dogs? Community Development Director Link commented that the definition of a dog is any dog over six months. Councilmember Piekarski Krech said this issue has come up before a number of times and as long as the puppies were sold before they were six months old they did not fall under the commercial kennel category.

Motion by Piekarski Krech second by Perry to receive, the letters, emails, and all correspondence that relate to an Application for Commercial Kennel License at 8365 Delaney Circle

Ayes: 5

Nays: 0 Motion carried.

City Attorney Kuntz stated that the zoning code states you can only have this facility in an agricultural district and Council is not able to appeal the license denial on this zoning requirement. Similarly, the 500 feet cannot be varied for a license application appeal. Typically, the appeal for the denial deals with other provision of the licensing, for example regarding the inspection, and the inspection reveals adequate safeguards and protects the surrounding neighbors from nuisances. There is interpretation and judgement to be applied for the council to review to concur or not concur with the staff's decision. In the instance where the zoning isn't there, you are not able to overturn the appeal in the Zoning Code. The Zoning Code would need to be changed. Right now, the only district that allows a Commercial Kennel is the Agricultural District (lots typically over five acres or more) which may be why there is a 500-foot requirement. The Zoning Code cannot be changed tonight.

Robert Heller, 8365 Delaney Circle, stated he is a breeder. He has a dome house with 18" thick walls which limits the barking sound. There is not a great impact on the neighborhood. He stated he has 25 years of breeding experience.

Mayor Tourville stated that zoning doesn't allow for a commercial kennel license and there is no appeal.

Theresa Baker, applicant's wife, 8365 Delaney Circle, stated she is the applicant. Inver Grove Heights has a great animal hospital for French bulldogs and that is why they moved here. The City Clerk stated we requested we have eight dogs in the application, but we don't have eight dogs. They sometimes do rescues. We currently do not own eight dogs. She stated we don't make a living selling dogs, but we have pets. She thought kennels were allowed with the state zoning and the city zoning of Estate. She

asked that a different definition be considered for what she does so she does not have to give her pets away. Mr. Kuntz read the city code for the definition of a commercial kennel - where there are four or more dogs over the age of six months and are kept for breeding, keeping, harboring or selling of dogs – which is only allowed in Capital A zoning district by Conditional Use Permit subject to the issuance of a valid kennel license.

Councilmember Piekarski Krech asked how many dogs are allowed. Ms. Tesser answered three dogs are allowed. Councilmember Piekarski Krech asked if there was a provision in the city code to allow more than three dogs with a kennel license and thought one was issued a few years ago. Ms. Tesser stated the difference of the noncommercial license is in the wording of harboring, breeding, or selling of the dogs. Mr. Kuntz said the noncommercial kennel licenses are allowed in the zoning districts of A (agricultural), E (estate), and R-1, subject to the issuance of a valid kennel license. The definition of a noncommercial kennel is any place where four or more dogs over the age of six months are kept but not for the primary purpose of commercial breeding, keeping, harboring or selling of dogs. This is for people that were going to be keeping the same dogs.

Ms. Baker stated she has had the same dogs for the last four years. We do breed dogs to place or show. We don't make money on breeding dogs. This is not a profit venture. The neighbors don't even know that we have as many dogs that we have.

Mayor Tourville stated that neighbors are concerned about allowing a commercial kennel license. He stated the city could be setting a precedence. He stated some residents want to keep the fourth or fifth dog but neighbors do call the city to complain. Mayor Tourville stated the city council is trying to be good stewards but we can't change the zoning requirement. The holdup may be the definition of commercial and/or noncommercial kennel.

Ms. Baker said she would like a multiple animal permit like she had in Minneapolis. Mayor Tourville said that is not in the city codes for Inver Grove Heights.

Mr. Kuntz stated the other hurdle is the distant requirement and the code states that a kennel may not be located within 500 feet of a residential dwelling other than the owner's dwelling. The 500-foot distance requirement cannot be met in this application which applies to all types of kennels.

Mr. Heller stated that he put out a petition and most were in support of their endeavor. Councilmember Perry stated that there were seven signatures for and seven against.

John Armour, 920 Stryker Avenue, West St. Paul, Past President of the Siberian Husky Club and part of the pure-bred dog club stated this is not a typical situation. He stated he doesn't see Ms. Baker and Mr. Heller as commercial breeders. They breed the dogs to keep the quality of the breed. They do a lot of community work on responsible dog ownership.

Councilmember Bartholomew stated we have no choice but to deny this based on what we heard from the attorney.

Motion by Bartholomew, second by Hark, to deny the application for a Commercial Kennel License at 8365 Delaney Circle, Resolution 17-189

Barbara Armour, 920 Stryker Avenue, West Saint Paul, asked if there could be clarification as to when the kennel license was issued to keep more than three dogs that was discussed earlier. Ms. Baker and Mr. Heller (has known them for five years) are wonderful people and hopes the Council would reconsider and not deny the application tonight. Maybe the issues could be looked at to address some of the issues. Mayor Tourville said the information could be looked up to help clarify what happened back in 2010. The problem is they are not going to meet the 500 feet requirement and we can't change the zoning to the property tonight. He appreciated her comments and the issues will be looked at.

Councilmember Hark said the Council's hands are tied on this. He would like the applicants to contact staff about an interim multiple animal license so a solution could be found that would work.

Ms. Tesser stated that in regards to the 500 feet from the residence it is important to note that two of the residents that are opposing this are 48 feet from the residence and the other is 177 feet. They are fairly close to their neighbors' homes.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville suggested the applicants get together with staff to see if there is something that could be done.

Mr. Heller asked how much time he has to get in compliance. Mr. Link said there is no specific answer tonight. This has happened before and we could go back and look at how much time we have given others to get into compliance and apply it to this situation. Mayor Tourville again suggested that the applicants get together with staff. Mr. Link said he should be contacted.

Motion by Piekarski Krech second by Bartholomew to close the public hearing at 7:39 PM for the Commercial Kennel License Application.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville asked if the earlier motion to deny the application still stood. Mr. Kuntz said yes.

B. Consider Change of New Officers for Northern Tier Retail, LLC dba SuperAmerica Stores

Ms. Tesser presented this item stating that SuperAmerica has new corporate officers for all of their locations. There are two locations in Inver Grove Heights at 5728 Bishop Avenue and 7501 Concord Boulevard. This is for 3.2 off sale liquor licenses. The applicant has paid all the necessary fees as required by City code and provided all the necessary documents for the officer changes. The Police Department conducted background investigations for all the new officers and has found no basis for denial. Staff recommends approval of the officer change.

There was no one present from SuperAmerica.

Motion by Piekarski Krech second by Perry to close the public hearing at 7:41 for the officer change for Northern Tier Retail, LLC dba SuperAmerica stores.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Perry to approve the Change of New Officers for Northern Tier Retail, LLC dba SuperAmerica Stores.

Ayes: 5

Nays: 0 Motion carried.

7. REGULAR AGENDA:

I. FINANCE:**A. CITY OF INVER GROVE HEIGHTS; Consider first reading of an Ordinance Amending City Code Title, 3, Chapter 4, Sections 3-4-2-2- and 3-4-2-3 and 10-308 Adjusting Development Fees for 2018**

Finance Director Smith said this is the first reading of the ordinance and is part of the annual process to update the development fees. They are for sewer and water connection fees and fees associated with planning activities. The public hearing was set for November 13th on tonight's consent agenda. We will keep that open until the third and final reading on December 11th. The sewer and water connections fees are proposed to be increased from 3.5% to 5% which is based on financial projections used in the past from Ehlers and Associates in 2016. If approved tonight, we will put this on the website and send a copy over to the River Heights Chamber for their review.

Councilmember Bartholomew asked which fees were raised to 5%. The water fees are primarily at 3.5%. Water plat connections and core connection fees are 3.5%. The sewer plat connection fees are 5% and the sewer building permit connection fee is 5% and the storm water plat connection fee is 5%.

Councilmember Bartholomew asked if these fee increases are similar to other cities. Ms. Smith stated she did not check with other cities. She stated she will make a comparison to other cities for the second reading.

Councilmember Hark asked if these fees went up a year ago? Ms. Smith said yes and this process is done annually. Councilmember Hark asked if the fees were comparable and Ms. Smith said yes and showed a spreadsheet.

Mr. Lynch stated that there were discussions in the past regarding development and it has not occurred as hoped. The City is seeing more single-family lot developments and not as many multi family or commercial developments. The study done by Ehlers looked at what is happening with our connection fee funds and the recommendation in 2016 was that we would need to look at a short term significant fee increase (a 9% increase in sewer fees). It was decided not to do that but increase the fees over multiple years to make up some of the difference. Council felt dramatically raising the fees would hamper future development. We have gone with the lower increase over four years.

Motion by Piekarski Krech second by Hark to move the first read in an Ordinance Amending City Code Title, 3, Chapter 4, Sections 3-4-2-2- and 3-4-2-3 and 10-308 Adjusting Development Fees for 2018

Ayes: 5

Nays: 0 Motion carried.

Councilmember Bartholomew asked if the spreadsheet could be emailed to the Council. Ms. Smith said yes.

II. COMMUNITY DEVELOPMENT:**B. SEAN WRIGHT; Consider the following resolutions for property located at 6825 Cahill Avenue:**

- a) A Conditional Use Permit to allow expansion of a non-conforming structure up to 30% gross square feet Resolution 17-190**
- b) A Variance to exceed a 30% expansion of a non-conforming structure Resolution 17-191**

c) A Variance to exceed the 25-foot maximum height in the B-1 zoning district.

Mr. Link summarized the item and showed a map of the property. He stated that the property is located on the west side of Cahill Avenue near 70th. There is a house on the property with a gross square footage of 1,600 square feet with two levels. The proposal is for a large addition to the house to expand it to 3,700 square feet. The proposal also includes attached garages totaling another 1,200 square feet. The property is zoned commercial and the existing use is residential. The house was there before the city code and is a legal non-conforming structure. It can be expanded with limitations. What is being proposed is an addition which he illustrated on a map and showed the elevations. Mr. Link stated the Planning Commission recommended approval of all the applicant's requests and recommended the designation change from commercial to residential use in the Comprehensive Plan. He showed a map from the Comprehensive Plan and identified the mixed uses of the properties in the areas. Staff recommendation is slightly different than the Planning Commission. He stated staff supports the Conditional Use Permit for the house up to 30%, but does not support the house addition beyond the 30% because of the extra addition beyond the 30% variance increases the house to 130% but staff does support the garage addition beyond the 30%. Staff does recommend approval of the variance to exceed the 25-foot maximum height. The height would be 35 feet and the standard in a residential zone is 25 feet. Planning Commission recommends approval of all the requests with recommends changes in the zoning for the upcoming Comprehensive Plan. Staff supports the requests but not the increase in the house size.

Councilmember Bartholomew asked if the proposal met setback requirements and all other requirements except for the height in residential? Mr. Link said it does meet setback requirements and impervious requirements. Councilmember Bartholomew asked about the increase of the square footage and if it was permissible if it met the setback back requirements and other requirements. Mr. Link said that was correct. Councilmember Bartholomew asked if the 25-foot height was permissible in a residential area? Mr. Link said it was permissible. Councilmember Bartholomew said the height is being considered because it is permissible in a residential area. Mr. Link said that is correct. Councilmember Bartholomew said the 3,700-square foot addition should be considered since it is allowed in a residential zoning. Mr. Link said staff is concerned about the large square foot addition because the area is designated as commercial use and this large addition is considered a nonconforming use and goes against future commercial designation of the property.

Sean Wright, 6528 Cahill Ave, stated he bought the property for building a large addition and for a lot of garage space. Councilmember Piekarski asked if the house was originally a duplex and if it was going to keep it a duplex? He stated it is kind of set up as a duplex and would like to keep it that way.

Councilmember Perry asked if the intent was to keep the existing structure and build the new addition.

Mr. Wright stated the size of the new addition fits the size of the lot. The building has been there for 65 years and no one has tried to develop the property as a business.

Councilmember Perry stated she knew the former owner and talked to him. There is supposedly a bunker on the north side of the house that is buried on the property. There is also a gas line on the north side that is buried shallow (three to four inches) because of the bunker. She was wondering how this would affect building the addition. He said the grading is weird on the north side and there is some concrete sticking out of the ground. He would like to start building the garages first. Those issues will need to be addressed someday.

Councilmember Bartholomew stated he believes the property is not conducive to be commercial because of the topography and terrain. He stated he supports all the requests for that reason.

Motion by Bartholomew second by Hark to approve:

- a) **A Conditional Use Permit to allow expansion of a non-conforming structure up to 30% gross square feet Resolution 17-190**
- b) **A Variance to exceed a 30% expansion of a non-conforming structure Resolution 17-191**
- c) **A Variance to exceed the 25-foot maximum height in the B-1 zoning district. for 6825 Cahill Avenue**

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville said the area should be looked at for the possibility of rezoning the properties in the Comprehensive Plan and maybe a neighborhood meeting should be held.

C. BITUMINOUS ROADWAYS; Consider an Ordinance Amendment 1343 to renew the five-year Sand and Gravel Overlay zoning for the asphalt plant operation located at 11661 and 11201 Rich Valley Boulevard

Allan Hunting, Community Development introduced the item. He illustrated the location on a map. He stated that this is required to be renewed every five years. There has been mining at the site since 1963. The City first approved this permit in 1974. In 1979, the Council approved a Conditional Use Permit for an asphalt plant. Every five years this renewal has been approved. In 2002, a 130-acre expansion was approved on the southern part of the property. A well appropriation permit was granted by the DNR for the wash water ponds. There is no change to the boundary and they would like to continue with the asphalt plant and the sand and gravel. The City does have several regulations on the site governed by the sand and gravel (30 conditions of approval) and a Conditional Use Permit for the asphalt plant (14 conditions). There are permits from the County and State as well. Tonight, we are focusing on the three requests from the applicant for the renewal:

- 1) hour change to 6:00 am to 7:00 pm Monday – Saturday (currently it's 7:00 am to 7:00 pm Monday – Saturday) they would like the extra hour to start up the asphalt plant and have some of their trucks to leave the site, there would be no loading of trucks or any trucks entering the site,
- 2) pond testing – currently there are three wells and four ponds that are tested that have been required by the permit for a number of years. The three wells that are tested are on the southern part of the property and known on the plan well, the wicker well and the rainbow well. Hunting stated two ponds and two wash water ponds are tested. He pointed out the wells and ponds on the map. The requirements are they are tested every other year. The applicant is proposing a schedule for the testing of the wells and ponds on different years. The applicants have asked to stop testing the ponds in the middle of the area (wash water ponds) because they are infiltration ponds and don't represent what is getting into the ground water.
- 3) southern access point - there is a secondary entrance for the site which has never been addressed in the past, but they would like to add that as a secondary access point. The Environmental Commission reviewed the request and recommended approval of the requests but the secondary access point should be limited to 10% of the truck traffic.

There was concern about the public hearing notices being delayed in their delivery by the post office. Staff did resend the notices to properties within 1,000 feet of the property for the Council meeting. The Planning Commission did recommend approving the request with the condition of the secondary access point.

Councilmember Bartholomew asked if the County weighed in about the second access point? Mr. Hunting stated they did not because it is an existing access point. Councilmember Bartholomew asked how the 10% traffic limit would be monitored? Mr. Hunting stated staff will have to work with the applicant. There is no good answer tonight. Councilmember Bartholomew asked about the wash water ponds and the logic for not testing them because there is not a valid reading? Mr. Hunting said it did not give a valid reading. The ponds silt up with all the fines, which creates a cap that seals the ponds off, which results in not much infiltration of water down into the ground. That is why the well testing is done. Councilmember Bartholomew asked if other agencies looked at the application? Mr. Hunting said no other agency has looked at the application.

Councilmember Piekarski Krech asked if the ponds were dug out periodically? Mr. Hunting answered he believes so. Councilmember Piekarski Krech asked If they are being dug out - how do we know what the infiltration is? Mr. Hunting said the applicant can answer that question.

Mayor Tourville said there may be some confusion on what is being requested as part of the application regarding the wells and there is no new well being requested. Mayor Tourville asked if the secondary road was being used now? Mr. Hunting said it was his understanding that it was not being used.

Councilmember Hark asked when the ponds were last tested? Mr. Hunting responded according to the applicant the wash water ponds were last tested in 2016.

Kent Peterson CEO, Bituminous Roadways, stated the new request for testing of the ponds was to avoid confusion in which ponds to test. The storm water ponds would be a better place to test. The test results from the wash water ponds in 2016 were similar to the water tested out of the storm water ponds previously.

Michaele Whallin, Sunde Engineering, stated there was some confusion on which ponds were being tested. The storm water ponds known as D1 and D2 would better represent the ground water that people are pulling out of their wells versus the wash water ponds. The wash water ponds silt up really fast and occasionally get cleaned out. Councilmember Piekarski Krech asked where that water goes? Mr. Peterson said the water is recycled continuously in their washing operations, some evaporates and water is added from the wells. Councilmember Hark asked if the water testing was expensive? Mr. Peterson stated it is about \$1,000 per test. Mayor Tourville asked about the testing schedule. Mr. Peterson responded the storm water ponds would be tested, no testing of the wash water ponds, and testing of the wells. Ms. Whallin responded that the testing is showing similar results for all the ponds and wells being tested. There are no indications of a red flag anywhere. Mayor Tourville asked for clarification of the application - stating they were not asking to build a new well or pump for more water, just a change to the testing of the wells and ponds. Mr. Peterson said that was correct.

Mr. Peterson said he would like to start an hour earlier in the asphalt plant to get a jump on production and the asphalt would be put into storage silos. We would not be loading trucks or allowing trucks to enter the site until 7:00 am. This would allow us to build up a little surge before we start loading trucks. They would also like to park two or three trucks overnight and if needed they could leave before 7:00 am. Councilmember Piekarski Krech asked how much noise the asphalt the plant made? Mr. Peterson said he did not know, it was not real loud (you can hold a conversation next to it) but it is located down in a bowl. All three front loaders have a quieter back up alarm. Councilmember Bartholomew asked if loading wouldn't start until 7:00 am? Mr. Peterson said that was correct. Councilmember Perry asked of the

loading conditions was written into the conditions? Mr. Peterson said it was written in as part of the conditions. Mayor Tourville said the written conditions are pretty specific.

Councilmember Piekarski Krech asked for the rationale to use the southern secondary entrance. Mr. Peterson said he would like to use it to go in and get some sand and to pull some traffic away from the main entrance. Mr. Petersen stated they would limit the use to 10%. Councilmember Piekarski Krech asked what is considered 10% - all the trucks that come and go out of the site? Mr. Hunting responded the Environmental Commission considered 10% to be all the trucks going in and out of the entire operation. Councilmember Piekarski Krech asked how that would be regulated? Mr. Peterson said they would limit the amount of usage. Mayor Tourville asked if there were neighbors that would be affected by the use of the driveway – maybe we will hear about it tonight from those in attendance?

Joe Maltese, 11618 Akron Avenue, due west of Bituminous Roadways said he has been there for 30 years. He has no opinion on the usage of the southern driveway. He stated there has been a definite change in the last couple of years since the big mining operation started. He did not get a notice for the Planning Commission meeting until it was too late. The trucks are loud and his kids wake up every day at 7:00 am. The noise is still going on Saturday night and you can't be out on the deck even at 1,000 feet away. Councilmember Hark asked if the noise is coming from the trucks? Mr. Maltese stated the noise is from a variety of sources. He stated the asphalt plant is not loud. The trucks, and backhoe, and other equipment are loud. It is not only affecting me but others living around the plant (some from a mile away). He stated he is concerned about the new 6:00 am start. He stated the problem is the "creep" with the businesses in the area getting bigger and bigger and they then play the blame game on who is making the noise. He stated testing of the wells makes sense and it needs to be done efficiently. He stated the conditions of starting at 6:00 am should be conditioned upon making no noise with the loading of the trucks or using other large, loud equipment. The noise issue needs to be thoroughly reviewed and studied because the 7:00 am to 7:00 pm Saturday hours produces a lot of noise for a lot of time.

James Powell, Akron Avenue, Rosemont, stated he does hear the banging from his residence that is a mile and a half away. He stated there are state statues regulating noise and asked if decibel testing had been done recently. Mr. Hunting stated that has not be done recently. Mr. Powell stated he would like the noise levels studied.

William Larson, 11630 Akron Avenue, said he agreed that the noise is loud. He hears the slamming of the gates. He also hears the backing up of the big machinery. It does make it hard to be outside. He would like to not see operations start to 6:00 am. In regard to the wells, since they are asking not to test some ponds he wondered if new wells should be put in where those ponds are to be tested.

Steven Sandberg, 11802 Akron Avenue, complained about the notice he received. The notice was not clear for what they were asking for and they are asking for different things compared to last year. He stated the ponds that they are asking not to test are the closet to other people. The new driveway access usage is closest to most of the neighbors here tonight. He stated the testing of the water needs to stay as it is. The noise is going to get louder as the move the mining to the west.

Troy Stephens, 11808 Akron Avenue, showed a map of his property and stated he is 600 feet from the property. The noise is bad and he is concerned about the water testing. The silting of the ponds being talked about - they must be the first ponds where the rinsing is going on - then there isn't any infiltration going on. If they plan on using the ponds then testing must be done on the ponds. He questioned the

depth and direction of the water flow of the aquifers. There needs to be testing on the first effluent water because that is going to be the most contaminated water. We need to know where the waste is going. He would like to see documentation on past water testing of the ponds and wells. Mr. Hunting stated the water testing results and water flow information is in the file. He believes the water flows primarily from west to east and it has been looked at many times. He stated this has been looked at several times and looked at by the Department of Natural Resources.

Mayor Tourville asked about the testing results - if someone asked for them to be emailed could that be done easily? Mr. Hunting stated they could be sent out by email if someone requested them.

Joe Maltese, 11618 Akron, stated the noise has ramped up this summer. There is a noise that sounds like a cannon going off. The primary noise is the tailgates and large equipment and it is not coming from Schaffer. Bituminous Roadways is making the noise. He stated the noise is a huge quality of life issue even affecting sleeping, and enjoying the outdoors.

Carol Boudinot, 11624 Akron Ave, asked if some of the noises could be identified as to where they are coming from. Recently, a really irritating "drone" like noise has started. She asked if the startup time changed to 6:00 am would they use more water? Mr. Peterson responded no.

Mayor Tourville stated that tracking where the noise is coming from would cost money, then they would have to be tracked down, and there are other noise makers as well in the area.

Councilmember Piekarski Krech said noise is a major issue to her. She understands the 6 am start for the neighborhood is too early. Mayor Tourville asked what are the advantages of the City looking at the starting time of 6:00 am versus 7:00 am? Mr. Link stated the question is how regulated do we want to be on industries in the city? There are several conditions in the permit and it is heavy regulated. How do you protect the surrounding residential properties? This is a heavy industrial use and is designated that way. The properties along Akron are designated as a residential area. Where there are heavy industrial areas and residential areas next to each other there will be conflict. There are difficulties in balancing both of them. There isn't an easy answer especially regarding the noise.

Mayor Tourville asked about the water testing and how often is it required to be done? Mr. Peterson stated water testing is done every year. But the request is to start alternating the testing sites. Councilmember Bartholomew asked why they would like to discontinue testing the wash water ponds? Mr. Petersen stated they are asking for a testing schedule of the ponds and not to exclude the wash ponds. This way the schedule would be put down on paper and then it would be known when to test the ponds. He stated it was confusing on what ponds needed to be tested. Councilmember Bartholomew said it was discussed not to test the wash water ponds. Mayor Tourville suggested that one year the storm water ponds be tested and the next year test the wash ponds. For the south driveway it may alleviate some sound or not, it is going to be difficult to determine 10% usage. Councilmember Piekarski Krech believes that the footprint of where work is being done has changed because it is moving as they are moving. Mr. Peterson said production has not increased at the plant.

Councilmember Bartholomew stated he would like to keep the operating hours at 7:00 am because of the resident's concerns. For the southern access he is willing to try it but does not know how to regulate it to 10%. He would like the testing of the wash ponds back in the schedule. Mr. Peterson stated he has heard loud shooting noises in the area and heard it is from the landfill to scare off the birds. Mr. Link stated

that the landfill in the past has used some sort of noise making devise to get rid of the birds in the working area.

James Powell, Akron Avenue, Rosemont said in regards to the booming noise – it is not the noise he is hearing - but heard the landfill uses some kind of streamers (not guns) to scare the birds away.

Mayor Tourville suggested that staff call the landfill to see what they are doing.

Troy Stephens, 11808 Akron Avenue, asked if the city regulates the amount of decibel noise and how far away those decibels limits can be? Since it has not been done recently he hopes for testing of the decibel noise levels for a baseline moving forward. Mayor Tourville said we are talking of testing the waste water, storm water, wash water ponds and all the wells. It will now be on a schedule. Mr. Stephens asked about the south driveway – is it needed for capacity or access to material? He would also like to know where the mining is taking place, speed of the mining and what direction is it going.

Mr. Lynch stated the city goes by state statute regarding decibel levels -- the limit for residential locations are 10% of the time is monitored over a 60-minute period cannot exceed 65 decibels and the L50 which is 50% of the time during that same time of a 60-minute period or 30 minutes cannot exceed 60 decibels. For reference point, 60 decibels is a normal conversation at a meter and 70 decibels is a vacuum cleaner at 3 meters. That is the noise compliance. They are based on noise area classifications. There is in the statute that states, the noise is from where it is generated and not where it is heard. They give a specific example - the noise from an industrial facility near a residential area is held to any C1 standard which is the lowest (residential).

Mayor Tourville stated decibel limits are not in City Ordinances so the state standard is followed. Decibel limits are not in the list of conditions. Decibel testing has been done through complaints for other areas.

Mayor Tourville summarized that the starting time should stay at 7:00 am, the south entrance can be used on a trial basis, and test all the ponds and wells on a scheduled basis. Council asked that the test of the noise to examined by staff in regards to cost.

Motion by Bartholomew second by Hark to approve Ordinance Amendment 1343 to renew the five-year Sand and Gravel Overlay zoning for the asphalt plant operation located at 11661 and 11201 Rich Valley Boulevard

Mayor Tourville asked staff if they were clear on direction from the Council? The response was they were.

Mr. Lynch asked if Council wanted to do any testing on the noise problem. Mayor Tourville asked if the city owned a decibel meter? Mr. Lynch responded it does not and that a consultant would need to be hired. Mayor Tourville suggested staff look at the costs of getting decibel readings in the neighborhood. Councilmember Bartholomew asked that it be brought to a Work Session meeting.

Joe Maltese, 11618 Akron Avenue, stated the noise monitoring is long overdue. The noise level is not constant. Timing of the monitoring will be important. Some of the monitoring can be done by collecting the data over multiple dates.

James Powell, Akron Avenue, Rosemont, stated this is a noise nuisance. He commented that the end of the property line should be done to monitor the decibels. He asked if he would see where the testing was done.

Mayor Tourville said that there are companies that do this work. They are qualified to do the testing and will follow state statutes. He also asked if the mining work plans were available to the public. Mr. Hunting responded that it was part of the packet and it includes the phases of the mining plan.

Ayes: 5

Nays: 0 Motion carried.

D. CITY OF INVER GROVE HEIGHTS; CITY OF INVER GROVE HEIGHTS; Consider a Resolution 17-192 to fill a vacancy on the Planning Commission

Mr. Link introduced the resolution memorializing the resignation of Luke Therrien of the Planning Commission per City Ordinance. Staff is also looking for direction from the Council on how to fill the vacancy. There are three options: 1) readvertise via the website and other places 2) work off the applications received in May (he believes there were 14 applications – with 11 left to review) or 3) appoint the next person who got the most points of the remaining 11 applications.

Councilmember Piekarski Krech suggested reaching out the highest vote getter if the information is still available.

It was agreed to take the next person if they are still interested in serving on the Planning Commission.

Motion by Piekarski Krech second by Perry to approve Resolution 17-192 to fill a vacancy on the Planning Commission

Ayes: 5

Nays: 0 Motion carried.

III. PUBLIC WORKS:

E. Resolution 17-193 Receiving Feasibility Study and Scheduling Public Hearing for City Project No. 2017-24 – T.H. 3 Intersection Improvements for the 65th Street Project

Public Works Director Thureen introduced the item of the 65th Street Project that was broken down into components. The project was brought forward to Council last April, and action was withheld. The Council approved to do the preliminary design for the work on Highway 3 to connect 65th Street to it. In addition, the trunk watermain project that is the next item to be talked about is to extend it to the west. We split this into three projects. The work will lower the high point by eight feet vertically to improve sight line standards for Municipal State Aid and to be able to get approvals for the design. That means using a fair amount of retaining walls and minimizing impact that would occur on adjacent properties. He showed a map of the location of the work. An excessive amount of material will need to be moved. This particular project's estimated cost is \$4.4M. The funding will come from Municipal State Aid Funds, Water Funds and Northwest Area Storm Water Fund. Permanent easements, permanent right-of-way, and temporary easements will be needed and appraisals have been initiated. Once the project is ordered we can start the negotiations process with the property owners. He stated pending approval they will meet with

neighbors in regards to the project. The public hearing would be scheduled for November 13th. He recommends that Council adopt the resolution as presented.

Councilmember Piekarski Krech asked where the fill would be placed and does the City own any of the land? Mr. Thureen stated we own some of the land and that is the reason for acquiring the easements and rights-of-way. There is a 40-foot-wide right-of-way the City owns that starts at Trunk Highway 3 and goes to Woodwind Second and there is an additional 10 feet that was picked up when Woodwind was platted. We are trying to get this done at the same time the roundabout is being done.

Motion by Piekarski Krech second by Bartholomew Approving Resolution 17-193 Receiving Feasibility Study and Scheduling Public Hearing for City Project No. 2017-24 – T.H. 3 Intersection Improvements for the 65th Street Project

Ayes: 5

Nays: 0 Motion carried.

F. Resolution 17-194 Receiving Feasibility Study and Scheduling Public Hearing for City Project No. 2017-03– NWA Trunk Watermain Improvements - 65th Street Loop (Phase III of 2015-12) Hwy 3 to Blackstone Ridge

Mr. Thureen stated we will be talking about the trunk watermain and illustrated the project on a map. He stated the 16" trunk watermain would come down the west side of Highway 3. The system would be a looped system with a two-way connection. It will tie in with projects 2017-02 and 2017-03. Staff will be working with the same property owners. This project would be bid with project 2017-24 hopefully. All the work then could be done 2018. We will come forward to Council in the next couple of months with the feasibility study for the 2017-02 project.

Motion by Bartholomew second by Hark at approve Resolution 17-194 Receiving Feasibility Study and Scheduling Public Hearing for City Project No. 2017-03– NWA Trunk Watermain Improvements - 65th Street Loop (Phase III of 2015-12) Hwy 3 to Blackstone Ridge

Ayes: 5

Nays: 0 Motion carried.

IV. ADMINISTRATION:

G. CITY OF INVER GROVE HEIGHTS; Consider Approval of the Purchase Agreements for the William G. Carlson and Muriel J. Carlson Properties

Mr. Kuntz stated that this matter is for the purchase of the site for the new fire station site in the southern part of the City. The site is an 11.7-acre site and located at 9250 Courthouse Boulevard. There is currently a home and an accessory building on the site. In the negotiations of the property it was split into two parts. There is a five-acre tract and a 6.7-acre tract that are contiguous to each other and both are owned by the Carlson's. The purchase price for the 5-acre tract is \$840,000.00 and the purchase price for the 6.7-acre tract is \$1.095 million. The total purchase price is \$1,935,000.00. The closing is scheduled for the final week of October. The City would take possession of the property at that time, subject to a lease back to the Carlson's who would be in the process of building their new home. The lease back would be on the five-acre tract until June 30, 2018. During the lease period, the Carlson's would be in possession of the house and the outbuilding. They would not pay rent, the city would pay the taxes and the Carlson's would be responsible for the utilities, maintenance and upkeep of the property and buildings,

up to \$25,000 per repair or per occurrence. The Carlson's will provide a warranty deed and the property will be free and clear of any mortgages and the City will not be assuming any debt with respect to the real property. The Carlson's were not willing to sell one of the two pieces only. There are two closings that will occur simultaneously. The property is currently Comprehensive Planned RC (Regional Commercial) and zoned B-3 Business District Zoning. The Planning Department is in the process of working on a Comprehensive Plan change for two reasons 1) to place both tracts within the Metropolitan Urban Service Area within the use boundary and 2) to convert the designation of the tracts to RC designation of Institutional (for fire station use) and P Institutional. The survey work on the two parcels has begun for the closing. The purchase of the property is consistent with the Comprehensive Plan for a fire station. A portion of the five-acre parcel was identified on a map so that work for grading, utilities, etc. could start when the City takes possession of the property after the closing. Fund borrowing was suggested for the short-term funding. For long term funding it was suggested using capital improvements bonds. The resolution states that the public purpose is for the fire station and that is what it is being used for. Council made some changes in the wording in a couple of places in the documents and those changes have been made as previously discussed. The Carlson's have signed the purchase agreements.

Mayor Tourville asked if the Metropolitan Urban Service Area (MUSA) was double checked and if it needed to go forward as a MUSA extension request? Mr. Lynch responded that is our understanding. There is a difference in our Comprehensive Plan and the Zoning Ordinance. According to the Metropolitan Council it is not. So, we need to pursue the request for placing it in the MUSA.

Councilmember Piekarski Krech asked if the records were looked at for Arbor Point development? Mr. Link responded that Mr. Hunting will be looking at that. Councilmember Piekarski Krech thought the property was placed in the MUSA otherwise it would not be zoned B-3. Mr. Link responded the map will be looked at and double checked. It will need to go through the planning process. This will not affect the time frame. If the map is not correct it will be subtracted from the map.

Motion by Piekarski Krech second by Perry to approve the Purchase Agreements for the William G. Carlson and Muriel J. Carlson Properties

Mayor Tourville said as this moves forward the funding may change somewhat by maybe adding a bond. Mr. Lynch stated that according to the attorney a resolution will be brought to Council on October 23, 2017, to set all the financial transaction in place as outlined in the memo. A capital bond will also need Council approval.

Ayes: 5

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

Mr. Lynch said by prior approval tonight a special meeting was set for Wednesday, October 25th, to discuss semi-finalist Police Chief candidates. Council received a packet this evening with information in it. At that time, we will need to discuss and determine the final candidates going forward. As well as discuss and determine potential and financial considerations as suggested in my Friday e-mail. A determination should be made regarding about the City paying expenses as part of the interview process for candidates outside the state or for candidates traveling great distances outside the Metropolitan area. Also, is the City willing to pay relocation expenses if an out of state candidate is chosen. The candidates should know up front what to expect and they can make a determination if they wish to proceed in the process.

Mr. Lynch continued that the joint meeting that was scheduled with the Parks and Recreation Commission on October 30th, needs to be changed. Alternate dates are November 1st or November 2nd. It was

determined that Thursday, November 2nd at 6:00 pm at the Community Center would be the new meeting date.

Motion by Hark second by Perry to set a joint meeting with the City Council and the Parks and Recreation Commission for November 2, 2017, at 6:00 pm at the Community Center.

Ayes: 5

Nays: 0 Motion carried.

Mr. Lynch said for information and planning purposes staff is looking at the week of November 7th, 8th, and 9th for final interviews for the Police Chief position. Councilmember Perry is not available on the 7th. If the 8th and 9th works please notify me so I can inform the consultant. It should also be discussed, on the 25th who you want involved in the process (community members, staff, department heads, police, etc.). Mayor Tourville asked if it would be a public meeting and if the Council wishes the list could be narrowed down. Mr. Lynch reported that was correct. Information about the candidates is not public now. Mayor Tourville asked if the consultant was going to suggest a process? Mr. Lynch responded, if you mean by the process of interviewing the final candidates, we can have a process put together for Council review.

Councilmember Hark said that an email just came in from Fire Chief Thill saying there is a Fire Department Open House on Sunday, October 14th from 12:00 pm to 3:00 pm at station 3.

Ayes: 5

Nays: 0 Motion carried.

9. ADJOURN:

Motion by Hark second by Perry to adjourn. The meeting was adjourned by a unanimous vote at 9:43 p.m.