

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JULY 23, 2018- 8150 BARBARA AVENUE**

1. CALL TO ORDER 2. ROLL CALL:

The City Council of Inver Grove Heights met in regular session on Monday, July 23, 2018, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:00 p.m.

Present were: Councilmembers Piekarski Krech, Bartholomew, Hark, and Perry; City Administrator Lynch, City Attorney Kuntz, Public Works Director Thureen, Community Development Director Link, City Planner Hunting, City Clerk Tesser, Parks and Recreation Director Carlson.

Absent were: Recording Clerk Yourczek.

3. PRESENTATIONS:

A. Introduction of New Community Development Director, Janice Gundlach

City Administrator Joe Lynch paid recognition to Community Development Director Tom Link, who has worked with the City of Inver Grove Heights for 32 years.

City Administrator Lynch introduced Ms. Gundlach, who came from the City of New Brighton where she was the Assistant Community Development Director/Asset Manager. He stated that she has 12 years of experience within that Community and over 16 years of experience overall. He stated that she has been the City Planner, worked on re-development plans and has been in leadership roles including her most recent position. She has an Undergraduate Degree in Landscape Architecture from the University of Minnesota and is looking forward to working with all involved. He stated that her official start date was July 16th and that you can reach her by email at jgundlach@invergroveheights.org, or by phone at (651) 450-2546.

Janice Gundlach commented that she was excited to be here and that she worked with the City of New Brighton for 12 years. She has also worked for the Cities of Minnetonka, Lakeville, and Orono. She stated that she was happy to work with existing Community Development Director Tom Link and gather information from him.

4. CONSENT AGENDA:

A. i. Minutes of July 2, 2018 Work Session Meeting Minutes.

ii. Minutes of July 9, 2018 City Council Meeting Minutes.

B. Resolution 18-149 Approving Disbursements for Period Ending July 18, 2018.

C. Schedule Election Canvass Meeting on August 17, 2018.

D. Consider Awarding a Contract for Storm Water Pipe Repair at the VMCC.

E. Consider Change Order #1 for the West Rink Floor Project Contract to Minnesota Ice LLC.

F. Resolution 18-150 Authorizing Transfers to City of Inver Grove Heights Economic Development Authority (EDA).

G. Consider Pay Voucher No. 2 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.

H. Consider Change Order No. 3 for City Project No. 2015-09D – Broderick Boulevard Reconstruction, City Project No. 2017-21 – VMCC/Golf Course Parking Lots, City Project No. 2018-08 – Fire Station No. 2 Sewer and Water Improvements, and City Project No. 2018-11 – Fire Station No. 2 Fiber Optic Improvements.

I. Consider Pay Voucher No. 8 for the 2017 Capital Improvement Program, City Project No. 2017-02 – NWA Watermain Improvements, 65th Street Loop.

- J.** Consider Change Order No. 1 Amending the Contract for City Project No. City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements for Street Light Removal (Phase 1) to Include Boulevard Restoration (Phase 3).
- K.** Consider Change Order No. 2 for City Project No. 2018-07 – 2018 Pedestrian Ramp ADA Compliance.
- L.** Consider Change Order No. 1 for City Project No. 2018-09B – Sealcoat.
- M.** Approve Custom Grading Agreement for 4740 Babcock Trail (NE ¼ of the SE ¼ of Section 29, Township 28, Range 22, Dakota County, Minnesota).
- N. Resolution 18-151** Authorizing Advertisement for Bids for Public Works Maintenance Facility HVAC Improvements.
- O.** Consider **Resolution 18-152** Awarding Contract for City Project Nos. 2015-03 – 65th Street Reconstruction, 2017-03 – Watermain Improvements 65th Street Loop, and 2017-24 – T.H. 3 Intersection Improvements for 65th Street.
- P.** Approve Amendment to Custom Grading Agreement and Stormwater Facilities Maintenance Agreement and Release and Indemnification Agreement for 8879 Alverno Ave (Lot 2, Block 1, Llonis Addition).
- Q.** Consider **Resolution 18-153** Receiving the Feasibility Report, Scheduling of a Public Hearing, and Authorizing Submittal of a Point Source Implementation Grant Application for City Project No. 2017-17 – Dickman Industrial Park Wet Extended Detention Basin.
- R. INDUSTRIAL EQUITIES;** Approve **Resolution 18-154** relating to the Development Agreement, Storm Water Maintenance Agreement and related agreements for the plat of Industrial Equities located at Auburn Path and Argenta Trail.
- S.** Personnel Actions.

Mayor Tourville stated that there were two items that have changed. Item F needs to be amended and Item T, needs to be added to the Consent Agenda.

Councilmember Bartholomew requested Agenda Items 4C, J, and L be pulled.

City Administrator Lynch stated that the Amendment for Item 4F, was to add the approval of the purchase agreement that was completed earlier through the economic development authority for the purchase of the property located at 6639 Concord.

He stated that Item 4T is a request to set a special meeting for August 6, 2018 at 5:00pm to hear the final design plans, cost estimates from the Architect, and to authorize the Fire Chief to advertise for bids for the Fire Station.

Mayor Tourville clarified that they are addressing Agenda Items 4C, F, J, L, and T.

Motion by Bartholomew second by Hark to approve the Consent 4Ai-4S.

Ayes: 5
Nays: 0 Motion carried.

Mayor Tourville stated that Agenda Item 4C is to Schedule an Election Canvas Meeting on August 17th.

Councilmember Bartholomew stated that he pulled that Agenda item because he is unable to attend.

Motion by Bartholomew second by Piekarski Krech to approve Agenda Item 4C to Schedule Election Canvas Meeting on August 17th.

Ayes: 5
Nays: 0 Motion carried.

Mayor Tourville stated that for Agenda Item 4F, they need to add the wording “and approval of the purchase agreement” which was done at the EDA Meeting earlier this evening.

Motion by Hark second by Piekarski Krech to approve the item with change “and approval of the purchase agreement” to Agenda Item 4F.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated that Agenda Item 4J is to Consider Change Order No. 1 Amending the Contract for City Project No. City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements for Street Light Removal (Phase 1) to Include Boulevard Restoration (Phase 3).

Councilmember Bartholomew stated that he thought the restoration included in the final bid. He stated that he wanted to be assured that the original bid did not include the restoration.

Public Works Director Scott Thureen responded that when they went out for quotes they had it split up since the numbers they received for restoration were high. They decided to hold off on those for a later time. He stated that in conversations with Q3, who received the first part of the work, they came back with a number less than what they had received in the earlier quotes.

Motion by Bartholomew second by Perry to approve Agenda Item 4J to Consider Change Order No. 1 Amending the Contract for City Project No. City Project No. 2018-04 – Arbor Pointe PUD Shared Street Light System Improvements for Street Light Removal (Phase 1) to Include Boulevard Restoration (Phase 3).

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated that Agenda Item 4L is to Consider Change Order No. 1 for City Project No. 2018-09B – Sealcoat.

Councilmember Bartholomew stated that he was concerned with the 14.5% for insurance and asked if they had to have that insurance coverage.

City Attorney Tim Kuntz responded that he has had several conversations regarding this with City Engineer Tom Kaldunski. He stated that in previous specifications the pollution liability endorsement was not required. As the specs for the City are reviewed by outside Consultants, it was thought to put in the pollution liability. He stated that it was put in all contracts across the board, so it affected this contract also. He stated that when it was revealed that it was 14.5% and had to be kept for a minimum of three years, it was thought that this type of protection wasn't needed given the nature of the contract.

Public Works Director Thureen stated that they will be making this adjustment for this specific type of contract in the future, so this will not have to be done on an annual basis.

Motion by Bartholomew second by Perry to approve Agenda Item 4L to Consider Change Order No. 1 for City Project No. 2018-09B – Sealcoat.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated that they have added Agenda Item 4T so they can meet early at the Work Session in August to review and be able to go out to bid on Fire Station Number 2. They will be meeting at City Hall at 5:00pm on August 6th.

Motion by Piekarski Krech second by Perry to approve Agenda Item 4T to hold a special meeting at 5:00 p.m. on August 6th 2018 at City Hall to discuss the bids and specifications for Fire Station Number 2.

Ayes: 5

Nays: 0 Motion carried.

5. PUBLIC COMMENT:

There were no public comments at this time.

6. PUBLIC HEARING:

7. REGULAR AGENDA:

I. COMMUNITY DEVELOPMENT:

A. MEI MEI MAK; Consider an Ordinance Amendment to the Bishop Heights PUD Ordinance to allow for a massage business to be located on Lot 3, Block 1, Bishop Heights 4th Addition. Ordinance 1356.

Community Development Director Tom Link stated that the property is located off of Blaine Avenue and Upper 55th Street in the retail building where the Caribou Coffee shop is located. The request is to take one of the units in the building and use it for a Massage Therapy business. He stated that the area is in the Bishop Heights Planned Unit Development District and that the Zoning Ordinance is written to include only specific uses that come into the area. This building is zoned for retail and a coffee shop with a drive thru. He stated that they are asking to amend the Ordinance to include Massage Therapy. He stated that trip generation and parking for this business would be less than retail would have.

He stated that the Planning Staff recommends approval of the request and that the Planning Commission unanimously recommended approval.

Lisa Deal, Leasing Agent for Inver Grove Heights Marketplace, stated that she was present to answer any questions on behalf of Mei Mei Mak who is out of town.

Motion by Hark second by Perry to approve MEI MEI MAK; to Consider Ordinance 1356 Amendment to the Bishop Heights PUD Ordinance to allow for a massage business to be located on Lot 3, Block 1, Bishop Heights 4th Addition.

Ayes: 5

Nays: 0 Motion carried.

B. BETH & STEVE HOEPNER; Consider a Resolution relating to a Conditional Use Permit to exceed the maximum impervious surface allowed on the property located at 6511 Arctic Way. Resolution 18-155.

City Development Director Link stated that the property is located on a corner lot in the residential development off of Argenta and 70th Street. The request is for the addition of a porch onto the back of

their home. He stated that the Zoning Ordinance in the Northwest area is restricted on impervious surfaces, but that the Ordinance also allows for an increase with a Conditional Use Permit. He stated that the Engineering Department has reviewed the request and are in support. He commented that the storm water agreement will come before the City Council at an upcoming meeting. City Staff recommends approval of the request and the Planning Commission unanimously recommends approval.

Steve and Beth Hoepfner, 6511 Artic Way. Ms. Hoepfner stated that the City has been great with answering questions on this project.

Motion by Piekarski Krech second by Hark to approve BETH & STEVE HOEPPNER; to Consider Resolution 18-155 relating to a Conditional Use Permit to exceed the maximum impervious surface allowed on the property located at 6511 Arctic Way.

Ayes: 5

Nays: 0 Motion carried.

C. JAN & LINDA JENSEN; Consider a Resolution relating to a Variance to adjust a lot boundary that creates a lot less than the required 2.5 acre minimum for the property located at 2701 87th Street. Resolution 18-156.

Community Development Director Link stated that the property is located south of College Trail and west of Broderick Blvd. He stated that the request is for a variance for lot size on two existing lots, both of which have met the Zoning requirements of the minimum lot size. Due to a property line dispute, a Judge ordered a portion of Parcel 2 to be conveyed to Parcel 1, which would result in Parcel 2 falling below the 2.5 acres by 6/10 of an acre for a total of 2.44 acres. He stated that Staff has reviewed the Application and finds it consistent with the neighborhood and approves the request and that the Planning Commission unanimously recommends approval.

Mark and Cindy Nordstrom, 2701 87th Street East. Mr. Nordstrom stated that the Applicants are the Jensen's and they are not here this evening. He stated that the Jensen's are the Applicants because when the Judge ordered this, his Lawyers, and the Jensen's, had to take care of all the paperwork and filed the Variance. He stated that they are on the 2.44 acres and are looking for a Variance to make it a legal lot.

Councilmember Piekarski Krech questioned the ownership of the property and how the Variance could be given to another person with different ownership.

Community Development Director Link responded that with the Zoning Application, the Applicant can be someone other than the owner. Both parties have consented to the Application.

Councilmember Hark stated that the Nordstrom's have reached an agreement with the neighbor and the settlement was converted in a signed order by the Judge.

Motion by Hark second by Perry to approve JAN & LINDA JENSEN; to Consider a Resolution 18-156 relating to a Variance to adjust a lot boundary that creates a lot less than the required 2.5 acre minimum for the property located at 2701 87th Street.

Ayes: 5

Nays: 0 Motion carried.

D. CASEY'S RETAIL STORES; Consider the following Resolutions for the property located at Hwy 3 and Diffley Court:

- a) Resolution relating to a Preliminary Plat for the plat of Robert Curve Second Addition. Resolution 18-157.**
- b) Resolution relating to a Final Plat for the plat of Robert Curve Second Addition. Resolution 18-158.**
- c) Resolution relating to a Conditional Use Permit for a convenience store with gas sales. Resolution 18-159.**
- d) Resolution relating to a vacation of drainage and utility easements within Outlot B, in the plat of Robert Curve. Resolution 18-160.**

Community Development Director Link stated that the property is located on the border of Inver Grove Heights and Eagan and that there are four parts to this request. He stated that they are proposing a convenience store of about 4,600 square feet which will have six pumps. The request complies with the Cities platting, setback, landscape, exterior building, and height requirements. He stated that Engineering is comfortable with the design of the plat, the grading, and storm water. He commented that there are some old storm water easements that do not fit this configuration, so there will be a need to vacate those existing easements and create new ones that conform to the site. He stated that Staff recommends approval of the request and that the Planning Commission unanimously recommends approval.

Jeremy Anderson, Design Tree Engineering, stated that he was here to represent Casey's General Store and will answer any questions.

Sreenivasa Reddy, 9717 South Robert Trail stated that he is located at the Trestle Stop on South Robert Trail which is a gas station and convenience store. He questioned the need to have another gas station so close by.

Mayor Tourville responded that the Marketplace decides what businesses go where, the City Council does not.

Motion by Piekarski Krech second by Bartholomew to approve CASEY'S RETAIL STORES; to Consider the following resolutions for the property located at Hwy 3 and Diffley Court:

- a) Resolution 18-157 relating to a Preliminary Plat for the plat of Robert Curve Second Addition.**
- b) Resolution 18-158 relating to a Final Plat for the plat of Robert Curve Second Addition.**
- c) Resolution 18-159 relating to a Conditional Use Permit for a convenience store with gas sales.**
- d) Resolution 18-160 relating to a vacation of drainage and utility easements within Outlot B, in the plat of Robert Curve.**

Ayes: 5

Nays: 0 Motion carried.

Mr. Anderson, Design Tree Engineering stated that they are planning on opening the first or second quarter of 2019.

E. FRATTALONE'S DAWNWAY; Consider a Resolution relating to an Amendment to the Non-Conforming Use Certificate allowing the landfill to operate for an additional 10 years and approving a Resolution relating to an amendment to the Host Community Agreement. The property is located on Dawn Way, west of Concord Boulevard. Non-Conforming Resolution 18-161. Amendment Resolution 18-162.

City Planner Allan Hunting stated that this item has been before the City Council on December 11th and April 9th. Tonight, they are reviewing a 10-year extension of the Non-Conforming Use Certificate and the details of the Host Community Agreement.

City Administrator Lynch stated that on May 30th a group consisting of himself, the Mayor, and City Attorney, the Mayor, City Attorney, and City Administrator of South St. Paul, and representatives from Frattalone's, negotiated the terms of the Host Community Agreement. He stated that it would be a 10-year term in the amount of \$250,000 to each Community to be brought before the City Council in a request to be approved. He stated that Staff recommends approval.

City Attorney Kuntz stated that some of the changes to the Agreement were from numerous discussions that happened after the April 9th Council meeting. The Applicant invoked mediation provisions to determine the end result. That mediation was held May 30th under the auspices of Mediator Ex-Supreme Court Justice James Gilbert. The Applicant raised about 14 claims against the City directed to the following two elements:

1. Challenges to the authority to the City to set a drop-dead date for the Non-Conforming Use Certificate.
2. The Cities authority to impose fees unrelated to inspection of the landfill (Host Community Fees).

City Attorney Kuntz continued that the rest of the claims were to the point of not telling them when to quit the landfill, and that they didn't think that you could impose fees. He stated that in the Amendment, the Non-Conforming Use Certificate and the Host Community Agreement, those 14 claims are waived by the operator of the landfill and the City is released from any type claims that might lie in taking property from them without lawful authority. The claims were addressed in the Amendments. He stated that the extension is a ten-year extension at which it has to cease taking demolition debris landfill within two years and close down the landfill. The payment is \$250,000, which is the same as South St. Paul.

Councilmember Bartholomew asked if we knew if South St. Paul has approved the agreement yet.

City Attorney Kuntz responded that South St. Paul has yet to take formal action, but that they are in approval and comfortable with the wording.

Councilmember Bartholomew asked that if they accept this agreement if would they waive their rights to hold them responsible to meet all the conditions.

City Attorney Kuntz responded they do not waive those conditions. The 14 claims were raised but their reaction was to have them waive their claims. He stated that the City does not waive any of their rights to enforce conditions contained within the Agreement.

Nick Frattalone and Tony Frattalone, owners of Dawn Way Landfill. Nick Frattalone thanked the Staff for negotiating with them and said that they didn't intend to make this a legal battle to advise them of the legalities. He stated that they feel they are doing their part as a good neighbor by finishing things up the way it was intended.

Joe McBride, 4055 59th Street East showed a short video of what they have to deal with by living within the location of the landfill. He displayed a rock that was found by his mailbox that also had a piece of iron sticking out of it.

He stated that the Agreement states that the "Landfill may only accept demolition debris until December 31, 2027", and then it is followed by the statement "unless the parties agreed to the extension or modification here of". He stated that those words occur 17 times in the Agreement. He commented that there was no guarantee for an end date with that type of wording. He stated that their neighborhood deserves to know where they stand, and to say no to this Agreement.

Jim Fyksen, 4045 59th Street East commented that this is never going to end and that they will be back here in another ten years. He stated this has been going on for over 30 years, and that allowing them to continue to take gravel out of there just increases the term they get to be filled. He stated that he has dirt, dust, and has felt the shaking of the house for over 30 years and asks that they consider the owners of the homes around the landfill for a change.

Alaina Berube, 5901 Concord Boulevard displayed some large rocks that she has taken out of the road and asked why they let this continue.

Keith Joyce, 5873 Concord Boulevard also brought a large rock to show the Council that appeared at the end of his driveway last week. He stated this happens several times a year and he is tired of it.

Roz McBride, 4055 59th Street asked the City Council why they are willing to sign a document that may not have any strength to it at all. She asked them to vote no.

Tom Keim, 1454 Henry Avenue, South St. Paul stated that he grew up in his home with a beautiful view and now has a view of the big berm, which was supposed to have been taken down in size. He stated that he has dump trucks dumping 200 feet from his front window and that he cannot open his windows due to the dust. He questioned the home value if he sells. He voted no.

Tom Wilkens, 8959 Inver Grove Trail stated that he doesn't live in the neighborhood of the landfill, but that he served almost 12 years on the Environmental Commission. He stated this was one of the landfill issues he dealt with back then. He stated that there was a plan back when SKB had this property and that the outer edge could eventually be built on with the center becoming green space. He commented that he drove down that way in South St. Paul and noticed a huge pile of scrap metal in the center. He also noticed more material closer to the perimeter to the property. He commented that he understands the neighborhoods frustration in the length of time this has gone on.

Mayor Tourville questioned why the City would look at a Non-Conforming Use when the premise of the mediation was a stop dead close date.

City Attorney Kuntz responded that there is a Statute under Chapter 462 that deals with Non-Conforming Uses which gives Non-Conforming Uses the right to continue in the same manner that they had existed prior to becoming Non-Conforming. He stated that the Cities position was that you could sign a document and voluntarily agree to a drop-dead date. He stated that the Statute superseded the waiver and that those claims are released by this document. The Cities position has to be agreed to by the landowner in order to be effective, but without that agreement, you have the right to continue.

Councilmember Bartholomew stated that he was concerned that another Council could change this Agreement.

City Attorney Kuntz responded it could happen.

Councilmember Piekarski Krech commented that she felt the end date meant nothing.

City Attorney Kuntz responded that the end date requires someone to change it mutually, if it is to be changed.

Mayor Tourville commented that South St. Paul may be waiting to see what we are going to do. He stated that the Non-Conforming Use Certificate can be changed if all parties agree, if they do not agree, it cannot be changed without other remedies.

Tony Frattalone commented that he wanted to clear up a few questions from the citizens. He stated that they do not grind up metal, they reclaim it and take it out with a magnet, not a grinder. He stated that on the South St. Paul side they screen topsoil.

He stated that regarding the rocks, they do not sell any product out of the site. He felt that was concrete that may have fallen out of a truck coming into the site. He stated that there have been some changes made to the site as they have put some speed bumps in to slow down traffic. They also put in a new tire cleaner that the trucks have to run over before they go out.

Councilmember Hark stated that there are items falling out of these trucks and asked what they could do to make things safer.

Tony Frattalone stated that was the first video he has seen out of that site and that they are trying to do the best that they can and have their street sweeper out trying to keep the roads clean.

Nick Frattalone commented that the video shows something coming out of their landfill, but that they don't sell that type of material. He doesn't know where the rock came from. He stated they can make sure they don't load the trucks too full.

Councilmember Hark asked if there was a requirement to have the loads covered.

Tony Frattalone responded that there is for demolition debris, but not for rock, sand, or gravel. They can ask them to tarp the loads when they are leaving, but many trucks out there do not have a tarp.

Mayor Tourville requested that when the street sweeper is out and they notice a bigger rock, they should get out and pick it up.

Councilmember Piekarski Krech questioned if the rock didn't come from loads coming out of the facility, then they may be coming off the trucks coming in. If that is demolition debris coming in, it needs to be covered. She asked how these rocks are coming off a covered load.

Mayor Tourville asked if this is approved for another ten years, if they would be back asking for additional years.

Nick Frattalone responded that it is their intent to be shut down in ten years. Their incentive is financial, and the quicker they fill it up, the better they are financially.

Councilmember Hark stated that the intent is to honor the Agreement that was mediated. The neighborhood is concerned that the Agreement will not be honored in ten years. He commented that the City should honor it as it was a contract that was agreed upon mutually.

Councilmember Bartholomew stated that all parties must agree to make the Agreement work and that he believes it is their intent to close in ten years. He stated that he was concerned with the debris on the road and commented suggested that the City should start monitoring and ticketing drivers that go by.

Councilmember Piekarski Krech asked if the original Non-Conforming Use Certificate expired on December 2017. She asked if this Agreement still held.

City Attorney Kuntz responded that they were to cease accepting demolition debris no later than December 31, 2017. He stated that the Agreement is still in effect as it has not been changed. It was superseded by Statute which gave a right to continue Non-Conforming irrespective of agreeing otherwise.

Councilmember Bartholomew commented that with the Agreement expiring in December, it has been extended further until we could reach an agreement.

City Attorney Kuntz responded that it was extended until the parties could agree on it.

Councilmember Perry stated that at the December meeting Frattalone had asked for a 15-year extension because they didn't think they could get it done in less than 13 years. She stated that now they are asking for ten years because they feel they should get it done in ten years. She asked why the difference.

Nick Frattalone responded that they were originally at 10 to 12 years, but since the original Agreement was for 15 years, they felt it was easier to renew it as it was done previously.

Councilmember Piekarski Krech commented that they are bringing in recycling materials and demolition debris. She asked if that was a part of the original Agreement.

City Attorney Kuntz responded that it was a part of the 2002 Agreement which defines crushable concrete and crushable asphalt, which they are allowed to process on site and sell.

Councilmember Bartholomew stated that he would like to see enforcement stepped up for unsecured loads and debris on the road to make sure the loads are safe.

Nick Frattalone offered to help with that safety measure as well.

Mr. McBride asked that if, during the ten-year period, there was a disagreement with Inver Grove Heights and Frattalone on the Non-Conforming Use Certificate, would it take both parties to agree in order for anything to happen.

Attorney Kuntz responded that changing the words of the document would require both parties.

Mr. McBride questioned enforcement and if they were to violate the Non-Conforming Use Certificate. He asked if Frattalone would have to agree with that and if the end date needed consent from both parties.

Attorney Kuntz responded that the enforcement of the conditions does not require the other parties consent as they have already signed the document and have agreed to the wording. The enforcement can be unilateral by the City.

Councilmember Piekarski Krech asked what would happen if they disagree with what the enforcement entails.

City Attorney Kuntz responded that they can continue in the enforcement action even though it doesn't require their consent for us to exercise the enforcement rights. They start with discussion, move to citation, and then other aspects as the matter continues if it is not resolved. He stated that in response to the end date question that they do not need consent because it has already been agreed upon unless the City changes the end date. He stated that Frattalone cannot unilaterally change the end date because both parties need to agree.

Councilmember Bartholomew stated that when you say parties, it means three parties because they are also dealing with South St. Paul.

City Attorney Kuntz agreed that South St. Paul would be a part of it. He stated that the South St. Paul side is filled at a 75% to 80% capacity. There is probability that their side would get filled prior to ten years

because it is close to being full now. He stated that part of the Agreement was to encourage the operator to bring in and end use plan. That has been targeted as October of 2019.

Councilmember Bartholomew stated that he is in support of the Non-Conforming Use Certificate. He stated that the concerns of the neighborhood are valid and looks to Staff and the Police to cite for that, along with the partnership from the Frattalone's. He commented that the term would expire in ten years and with South St. Paul near completion, he doesn't see them extending further.

Motion by Bartholomew second by Tourville to approve FRATTALONE'S DAWNWAY; to Consider a Resolution 18-161 relating to an Amendment to the Non-Conforming Use Certificate allowing the landfill to operate for an additional 10 years and approving a Resolution 18-162 relating to an amendment to the Host Community Agreement. The property is located on Dawn Way, west of Concord Boulevard.

Mayor Tourville commented that the neighborhood, when seeing rocks, or something that involves the trucks, having the video has helped law enforcement be able to do something further.

Councilmember Piekarski Krech stated that the Agreement is in the best interest of the City, but not in the best interest of the residents. She felt the neighbors have gone through this long enough and that ten years further is too long. She stated that she was willing to go five to seven more years, but that the rocks, the dust, and the noise is in the middle of a residential area.

Councilmember Hark commented that the Agreement that has been mediated was enforceable. He agrees that the City has to enforce the trucks coming in and out and start writing tickets if things are falling off the trucks as it is a safety issue on the road. He stated that in being good stewards of the City they need to limit exposure to the City in the long term.

Councilmember Perry stated that she agrees with Councilmember Hark in that she wants to be inclusive to the businesses and what they need, but that also seeing the video from the residents and having heard the noise by going down there, she felt she was split in her decision.

Mayor Tourville stated that businesses and neighbors are both important in this town. The neighborhood has put up with a lot and that they looked at the mediated agreement to get something done.

Ayes: 3

Nays: 2 (Piekarski Krech, Perry) Motion carried.

Alaina Berube, 5901 Concord Blvd. asked if they could get a no Jake brake rule down there for early in the mornings.

Mayor Tourville stated that there are many trucks down on Concord and that not all of them go to Frattalones. He commented that they can look into the issues and see how they can help the neighborhood.

II. PARKS AND RECREATION:

F. Consider Approval of Improvements to River Heights Park.

Parks and Recreation Director Eric Carlson stated that on May 14th the City Council voted to keep River Heights Park as a park and to have Staff meet with a small group consisting of residents and members of The Friends of The Mississippi River to speak about what improvements should be made to River Heights Park.

They came up with the following:

- Install a Park ID Sign at the southwest corner of Inver Grove Trail and River Heights Way set at a 45-degree angle. Sign would be consistent with other Park ID signs.
- Install up to two park benches inside the park, locations to be determined.
- Install one picnic table inside the park, location to be determined.
- Install park rules signs.
- Install a garbage can and dog waste station.
- Work with the Friends of the Mississippi River to develop a Natural Resource Management Plan.
- Do not add additional parking at this time, will evaluate the need for future parking.
- No portable toilet at this time.
- Fence posts and wire on the premises to be removed by City Staff.
- Trees and undergrowth to be removed.

Councilmember Piekarski Krech stated that this would be located where several would be coming to use the park and that she would prefer they have a port a potty here.

Parks and Recreation Director Carlson responded that the park wouldn't be used to the extent that it would need a portable toilet. Those are put at locations that have scheduled or high activity.

Councilmember Hark suggested revisiting the issue of a port-a-potty once they determine the usage of the park.

Parks and Recreation Director Carlson stated that they are requesting the City Council to authorize up to \$12,000 out of the Parks Acquisition and Development Fund to incorporate these improvements into the park.

Mayor Tourville stated that the Friends of the Mississippi is having their 25th Anniversary tonight and could not be in attendance. They did send a letter stating that they appreciated working with the Parks Commission and the City and that they will continue to work with the City to look at other ideas.

Steve Cook, 9250 Inver Grove Trail stated that he was a part of the subcommittee for this park. He commented that their goal was to do the minimal to make this a park that people can locate. They can see how things proceed with use and to see what more they may need. He stated that having a port a potty at the park in such a remote location could be subjected to vandalism. He didn't feel one was necessary at this time.

Motion by Hark second by Piekarski Krech to Consider Approval of Improvements to River Heights Park for up to \$12,000.

Ayes: 5

Nays: 0 Motion carried

G. Consider Awarding a Contract to Pember Companies Inc. for the Heritage Village Park Dog Park.

Parks and Recreation Director Carlson spoke of the History of Heritage Village Park and that they have been acquiring property in the area over the last 20 years. The City has been discussing a potential dog park since 2009 and that the process to develop a park included having a Subcommittee consisting of Park and Recreation Commission Members and residents. He stated that this location has enough space and provides an amenity that residents have been looking for.

The improvements related to the dog park are as follows:

- 23-car off-street paved parking area
- Parking lot and security lighting
- 1-acre fenced small breed area – chain link fencing
- 9-acre fenced all breed area – welded wire fencing
- Natural/mowed trails
- Additional improvement phased in over time with the help of the Friends of the Inver Grove Heights Dog Park

He stated that the Inver Grove Heights Dog Park group consists of residents who desire a dog park and will be donating their time and energy to help manage, maintain, and implement future improvements. They have been involved in the planning and design process.

He stated that bids were received on Friday, July 13th and that the Engineers estimate for the recommended improvements was \$825,000. The lowest bid came in from Pember Companies Inc. for \$843,017. He stated that overall project costs are estimated at \$1,132,017, with some costs still needing to be finalized. Proposed funding is as follows:

- State of MN Grant – No match required. Expires at the end of this year. \$330,000
- State of MN Grant – Match required 1:1 \$401,008
- City 1:1 Match for Dog park Work (402 Fund) \$401,009

Parks and Recreation Director Carlson stated that costs to maintain the dog park if approved were estimated to be \$12,000 a year with probable revenue from passes and donations totaling approximately \$8,000 annually.

He stated that the next step would be constructing the improvements as follows:

- The City Council would approve the rules/registrations forms/rates in the Fall of 2018.
- Agreements with WSB and Utilities at the August 13 meeting.
- Park opening Fall of 2018.

Councilmember Bartholomew stated that the bids were higher than the Engineering estimate. He asked about the disposal of unsuitable soils and asked for an explanation of the costs.

Parks and Recreation Director Carlson responded that the \$10,000 for dewatering and the \$50,000 for export and disposal is a placeholder number. Those numbers are there in case they run into those issues and will need to use it. He stated that based on their Environmental Engineer they do not expect to run into those issues, but it is there just in case they do.

Councilmember Piekarski Krech asked if we have ever used this company before and questioned the burying of the utility lines.

Parks and Recreation Director Carlson responded that they have not done business with the company before but they have been checked out. He stated that WSB has done business with them before and has not had any bad experiences with them.

He stated that in response to burying the utility lines, they are recommending having them buried and that the numbers were just estimates for now. They would be buried for both the dog park and other future improvements that they would be making in the park.

Councilmember Piekarski Krech commented that they were spending a lot of money on a dog park and expected the amount to bring more features. She suggested charging more for using it and felt that \$20.00 was on the low end and that she didn't think \$30.00 was too unreasonable of a fee.

Parks and Recreation Director Carlson commented that they would get a lot of compliments and positive reviews for the product they are putting there, and that people will come back time and time again. He stated that in response to the fees to charge for the park, the City Council can decide whatever amount they want to charge. The market around them is charging between \$20.00 to \$40.00. He stated that the dog park group will review the information and recommend a fee that the Council would finalize.

Councilmember Piekarski Krech commented that dogs should be licensed in order to use the dog park.

Parks and Recreation Director Carlson stated that the Parks and Recreation Staff is working with the Police Department to address some of the licensing issues. It would be helpful to have the licenses available at more locations, as well as online, which would hopefully engage more people for the need to have one if they own a dog.

Councilmember Piekarski Krech asked how they would make sure that everyone who goes to the dog park will have paid their fees and have licensed and immunized their pets.

Parks and Recreation Director Carlson responded that there isn't a guarantee that everyone will follow the rules. The people that are a part of the dog park group tend to self-police and would most likely notice people that are without the proper tags and identification.

Councilmember Hark stated that it was a lot of money, but a good use of the Grant money they have. He stated that when we add that type of facilities, there is a future cost for upkeep and to keep that in mind. He states that he is for this park and commented that we should look at a dog license amnesty program to get folks in the door and get their dog licensed.

Councilmember Perry stated that she is a non-dog owner and would not be using the park but thought this could be something that a lot of people would be looking for when moving into a new Community. She commented that this was a good use of the Grant money.

Motion by Hark second by Perry to approve to Consider Awarding a Contract to Pember Companies Inc. for the Heritage Village Park Dog Park.

Ayes: 5

Nays: 0 Motion carried.

Councilmember Bartholomew commented that he hopes that the volunteers will stay engaged.

Councilmember Piekarski Krech asked if they had received their non-profit status.

Parks and Recreation Director Carlson stated that the group would not be moving forward with the non-profit status because people can donate directly to the City and still have the same tax advantages as they would donating to a non-profit.

Dawn Goetke, 7477 Cahill Avenue stated that she is the Vice President of the organization and confirmed that they decided not to go 501c3. She commented that they do have a formal organization with officers, meetings, minutes, and a treasurer. She stated that they will get the word out during Inver Grove Heights Days to get more Community engagement.

Dennis Madden, 8137 Cleadis Avenue East stated that in order to get a dog park pass in South St. Paul you have to bring in the Rabies certificate and show that you have a license in the City.

8. MAYOR & COUNCIL COMMENTS:

City Administrator Lynch stated that this week is interview week. They have been authorized and directed to proceed with the Communications Manager, Communications Specialist, Environmental Specialist, and Civil Engineer positions. He stated that they are at the end of the process for the two Communications positions, and that round one of the Civil Engineer positions has been completed, and that round two of the Environmental position will be completed this week.

Councilmember Perry stated that the last week to register your event for Night to Unite is coming up. This is your chance to have City Staff, Fire, and Parks and Recreation Staff show up at your event. She commented that you can register on the City website.

She also stated that the Police Department still has five slots open for the Citizens Police Academy and that she was involved last year. She highly recommends taking part of the academy as you learn a lot and get to know the Police Officers.

Councilmember Piekarski Krech asked how many people they have registered for Night to Unite this year.

Parks and Recreation Director Carlson responded that they have 60 registered.

9. ADJOURN:

Motion by Perry second by Hark to adjourn the meeting at 9:19 p.m.

Ayes: 5

Nays: 0

Motion carried.