

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JUNE 13, 2017 –7:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Grotting, Spencer and McCoy

ABSENT: None

STAFF: City Administrative Assistant Horner, City Administrator Kaltsas, City Attorney Vose

VISITORS: Kaci Fisher, Lynda Franklin, Dean Fowser, Sarah Utsah, Scott Walsh

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council minutes from the May 9, 2017 Regular City Council Meeting.
- b. Approval of City Council minutes from the June 7, 2017 City Council Workshop.
- c. Approval of Accounts Payable; Checks Numbered 17140-17219.
- d. Approval of First Quarter Financial Report.
- e. Approval of Release from Development Agreement for that Portion of Lot 1, Block 2 (as legally described in the agreement) Independence Ridge Subdivision.
- f. Approval of the Large Assembly Permit and Associated Minnesota Lawful Gambling Exempt Permit for Twin Cities Polo Club Annual Polo Classic Event to be Held August 4-6, 2017.
- g. Approval of Professional Financial Services Contract with AEM Financial Solutions, LLC.
- h. Approval of Amended Stormwater Pond Maintenance Agreement for Franklin Hills 3rd Addition.

Johnson noted that item (f) would be pulled for separate discussion.

Motion by Betts, second by McCoy to approve the Consent Agenda with the exception of item (f). Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Johnson asked Kaltsas to explain why item (f) was being pulled for review. Kaltsas said this permit was approved last year and is being looked at again with the stipulation that a new condition be added. He said WHPS would like to add an escrow deposit of \$300.00 for the Police Reserves that will be needed for the event. The fees would be determined after the event and payment taken from the escrow dollars with any

unused portion to be returned if applicable. McCoy asked if there had been issues. Kaltsas said there have been discussions and this would make it easier to settle after the event. Kaltsas noted the gambling permit is a new item pertaining to the auction they plan to have. McCoy asked if noise was going to be an issue. McCoy asked if the deposit needed to be increased since it was technically over three days. Kroells said if there was going to be 3500 for the band on Friday \$300 was not enough. Everyone agreed more details were needed on the Friday night event.

Motion by Johnson, second by Spencer to approve the liquor license and gambling permits for the Polo Club Classic with more details needed to approve the total event permit. The final approvals may be presented at the next meeting. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Planning Commission Meeting
- Lake Independence Citizens Association Annual Meeting
- Public Works Planning Meeting
- Delano Memorial Day Celebration
- Hennepin County Comprehensive Plan Committee Meeting
- Hennepin County Workshop
- City Council Workshop

Grotting attended the following meetings:

- Planning Commission Meeting
- City Council Workshop

McCoy attended the following meetings:

- I-94 Chamber event honoring Loretto First Responders
- Memorial Day Services
- City Council Workshop
- Orono High School Graduation
- Minnesota Firefighters Conference
- West Hennepin Chamber of Commerce Meeting

Betts attended the following meetings:

- Delano Senior Center Appreciation Luncheon
- Sensible Land Use Committee Conference
- Police Commission Meeting
- City Council Workshop

Johnson attended the following meetings:

- Lake Independence Citizens Association Annual Meeting
- Community Action Partnership Hennepin County Finance Meeting
- WeCAN Open House

- Land Use Advisory Committee Meeting with Met Council
- Delano School Board Meeting
- Met Council Sewer Meeting
- Orono Scholarship Awards Ceremony
- Minnehaha Watershed Meeting
- Senior Community Services Board Meeting
- Hennepin County Community Action Partnership Board Meeting
- Martin Eichers Open House/ Graduation
- Police Commission Meeting
- Lewis Cemetery Program
- 2 Northwest League Meetings
- Auditors Meeting
- City Council Workshop
- West Hennepin Chamber of Commerce Meeting

Horner attended the following meetings:

- Planning Commission Meeting
- Mead Hunt Architectural Firm meeting at Museum
- West Hennepin Chamber of Commerce Meeting
- City Council Workshop

Kaltsas attended the following meetings:

7. DIRECTOR GARY KROELLS, WEST HENNEPIN PUBLIC SAFETY - ACTIVITY REPORT FOR THE MONTH OF APRIL, 2017.

Kroells said April had an increase of 123 incidents compared to the same time frame last year. He noted the department is at full-staff with the hiring of Cody Thompson.

For a complete report see the City Council packet

Kroells said MnDOT announced on May 4th that they will be funding a center median to extend from County Road 6 to Baker Park Road. The effort will be completed in 2021. The City will also be able to be involved in the project as changes will be made to the intersections at 90 and 92 as well. Kroells noted next steps are a concept plan. Johnson said it would be great if the railroad would get involved.

8. PUBLIC HEARING: ORDINANCE AMENDMENT TO SECTION 915- REGULATION OF LAKE SARAH SURFACE USE.

- a. **ORDINANCE 2017-02:** An amendment relating to the removal of the no-wake provision to be consistent with the ordinance regulating Lake Independence.

Kaltsas said the City adopted an amended ordinance last fall to match the language incorporated by the City of Greenfield. The City submitted a draft to the DNR for review following adoption last fall. It was noted by the DNR that both cities would need to hold a public hearing prior to adoption of the ordinance amendment. The proposed amendment has not changed from last fall. Greenfield will also be holding a public hearing in June to review the amendment.

In an effort to maintain the “same” ordinance, staff is recommending that the City adopt a revised ordinance which would be identical to that which was recently adopted by the City of Greenfield. The ordinance numbers would not change as a result of the new adopted language. A copy of the proposed changes is attached to this report.

Kaltsas said Lake Independence is 3 days on and 3 days off when a no-wake is in effect. He said Lake Sarah is currently 3 days on but off immediately in a no-wake situation. This new ordinance would make Lake Sarah the same as Lake Independence.

Public Hearing Open

Walsh stated he is the one responsible for putting up the signage on Lake Sarah in the event of a no-wake. He said it is a lot of work and he is in favor of the 3 days on/ 3 days off model. He said he was happy the Council was instituting this ordinance.

Motion by Spencer, second by McCoy to approve ORDINANCE 2017-02: An amendment relating to the removal of the no-wake provision to be consistent with the ordinance regulating Lake Independence. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Public Hearing Closed

Motion by Spencer, second by McCoy to close the Public Hearing. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.

9. DEAN FOWSER (APPLICANT/ OWNER) REQUESTS THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 8875 HIGHWAY 12 (PID NO. 18-118-24-11-0001) IN INDEPENDENCE, MN:

- a. **RESOLUTION NO. 17-0613-01-** recommending approval of an amendment to the conditional use permit to expand the commercial building located on the property.

The property is located on the south side of Highway 12 and just west of Copeland Road. The property has an existing residence and three detached accessory buildings. The property has a significant wetland on the west and south sides.

The subject property was granted a conditional use permit to allow a dog kennel in 1977. In 1993, the City amended the conditional use permit to allow and outside dog run in association with the conditional use permit. The conditional use permit has the following key conditions (see attached City copy of minutes for CUP):

1. Metal pole building can be up to 36' x 82.5'. Expansion of the building can occur without further City Council review.

2. 55-60 dogs.
3. Boarding and impounding of dogs from 8:00am – 7:00pm 7 days a week.
4. An outdoor fenced exercise area up to 2,400 square feet is permitted.

A kennel is defined as follows:

"Kennel." Any structure or premises on which four or more dogs over six months of age are kept.

The City was contacted by the owner (Dean Fowser) last year to discuss the possibility of expanding the existing building. Dean currently leases the building to Abby Lake Kennel. The kennel would like to improve the existing facility in order to stay competitive and potentially attract new clients. The existing kennel currently houses approximately 15-20 dogs at any given time. Abby Lakes has noted that they are not expecting to increase the number of dogs kept on the premise, but rather improve the facilities for their current clients.

The original conditional use permit allows for 55-60 dogs to be kept on the premise and an expansion of the building up to 36' x 80'. When discussing the expansion of the building with the owner, he noted that he would like to turn the building 90 degrees and construct a new building rather than trying to expand the existing building. The City informed him that this would require an amendment to the conditional use permit. Turning the building appears to fit better on the property and would avoid potential conflicts with the adjacent wetlands.

The proposed building would be 36' x 80' in size with a small 12' x 12' vestibule. The proposed building would be a one-story metal pole building similar in design to the existing building. The building would have the interior kennel space, a grooming area, reception area and then a separate storage garage.

The kennel is accessed off of Highway 12 via a gravel driveway. It is proposed that the kennel will continue to utilize the existing Highway 12 access. The applicant will need to modify the existing driveway and parking area to accommodate the new building. The applicant has prepared a site plan which indicates the revised parking and drop-off area based on the proposed building. The proposed setback from Highway 12 is 72 feet from the property line. The City will require one (1) handicap accessible parking space to be signed and delineated in the parking lot.

The outdoor fenced kennel area will remain following the construction of the new building. The area will be connected along the rear of the building and cannot exceed 2,400 square feet.

The applicant just recently updated the on-site septic system. The newly installed system will accommodate the proposed new building with no further modifications necessary.

The criteria for granting an amendment to the conditional use permit are the same as granting a new conditional use permit and are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.

2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The proposed facility has been in existence since 1977. The City does not have a history of complaints or concerns relating to the use of the property as a kennel. The natural features of the property and its geographic relationship to the surrounding properties and Highway 12 minimize potential impacts to the adjacent properties.

Staff is seeking discussion and direction from the City relating to the request for a conditional use permit amendment.

Planning Commissioners reviewed the requested amendment to the conditional use permit. Commissioners asked about the proposed layout of the new building and how the parking area would be revised. Commissioners asked how the pet waste is handled. The applicant explained that the waste is put into a holding tank on the property and then pumped out. Commissioners discussed that the applicant has approval to expand the existing building and that building a new building would be a better solution. Commissioners asked for clarification relating to the setback from Highway 12. Staff noted that the proposed setback met the 85 feet requirement, but that it would be added to the final survey. Commissioners found that the proposed amendment met the requirements and recommended approval to the City Council.

The City has not received any written or oral comments regarding the proposed amendment to the conditional use permit.

The Planning Commission recommended approval of the request for an amendment to the Conditional

Use Permit with the following findings and conditions:

1. The proposed Conditional Use Permit amendment request meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. All conditions of the 1977 approved conditional use permit and 1993 amended conditional use permit shall remain in full force.
3. The Conditional Use Permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
4. The proposed breeding facility is permitted as shown on the approved site plan. Any expansions, additions or other changes to the proposed site plan will require an amendment to the Conditional Use Permit.
5. The applicant shall obtain a building permit from the City to allow the construction of the new building.
6. The applicant shall provide the City with an updated site plan indicating the location of the driveway and parking areas. The plan shall identify the location of a handicap accessible parking space. The applicant shall be required to install the requisite space at the time the building is constructed.
7. The applicant shall be responsible to pay all fees associated with the consideration and review of the conditional use permit amendment.

Grotting asked if there was an alternate septic site. Kaltsas said the septic system is brand new.

Motion by McCoy, second by Spencer to approve RESOLUTION NO. 17-0613-01-recommending approval of an amendment to the conditional use permit to expand the commercial building located on the property at 8875 Highway 12 (PID No. 18-118-24-11-0001) in Independence, MN. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.

10. PRESENTATION BY CLIFTON LARSEN ALLEN- 2016 FINANCIAL AUDIT AND YEAR END FINANCIALS

Utsah presented the 2016 Financial Audit. She noted that as of December 31st cash was down due to the bond proceeds. She noted that reserves were also down but the City was healthy with 2.3M in the general fund. Utsah said the biggest expense is Public Safety, Fire Department and the Building Inspector.

for the full report see the City Council packet

11. ANNUAL OPPORTUNITY FOR PUBLIC TO COMMENT ON MS4 PERMIT

Each year the City is required to offer an opportunity to the public to provide comments relating to the City's MS4 Stormwater Permit. No official public hearing is required.

From the Minnesota Pollution Control Agency

What is an MS4?

A municipal separate storm sewer system is a conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, etc.) that is also:

- owned or operated by a public entity (which can include cities, townships, counties, military bases, hospitals, prison complexes, highway departments, universities, etc.) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage districts, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges to waters of the United States;
- designed or used for collecting or conveying stormwater;
- which is not a combined sewer; and
- which is not part of a publicly owned treatment works.

Fisher said the MS4 General Permit is designed to reduce the amount of sediment and pollution that enters surface and ground water from storm sewer systems to the maximum extent practicable. Stormwater discharges associated with MS4s are subject to regulation under the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS). Through the MS4 General Permit, the system owner or operator is required to develop a stormwater pollution prevention program (SWPPP) that incorporates best management practices (BMPs) applicable to their MS4.

Fisher asked if there were any questions or comments. Betts asked if ponds were included in the MS4 and who monitored them. Fisher said 1/5 of the ponds in the City are checked every year.

12. CHANGE OF CITY COUNCIL MEETING DATES/ TIMES

Kaltsas said Council has discussed moving the regular City Council Meetings to the first and third Tuesday of each month at 6:30 PM. It is anticipated that this will commence in August, 2017. The City will need to amend the ordinance to remove the prescribed times at a future meeting. The following is a tentative Council Meeting Schedule:

June 13, 2017 – Regular City Council Meeting (7:30 PM)

June 27, 2017 – No Meeting

July 11, 2017 – Regular City Council Meeting (7:30 PM)

July 18, 2017 – Joint City Council/Planning Commission Meeting (6:30 PM)

July 25, 2017 – Regular City Council Meeting (7:30 PM) – *if needed*

New City Council Schedule

August 1, 2017 – National Night Out – Regular Meeting to be rescheduled to either Monday, July 31 or Wednesday, August 2 (6:30 PM).

August 15, 2017 – Regular City Council Meeting (6:30 PM)

Kaltsas said the new schedule would be published in the upcoming newsletter and updated on the website. He noted it was not necessary to change the ordinance.

Motion by Spencer, second by Betts to approve the change of City Council Meeting Dates and Times noting that the first August meeting would be Monday, July 31st. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.

13. OPEN/ MISC.

14. ADJOURN

Motion by McCoy, second by Grotting to adjourn at 8:55 p.m. Ayes: Johnson, Grotting, McCoy, Spencer and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully Submitted,

Trish Bemmels/ Recording Secretary