

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, MARCH 2, 2021 –6:30 P.M.  
(Virtual Meeting/ All Attendees)

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 6:30 p.m.

3. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

2. ROLL CALL (Note: all noted present were “virtually” present

PRESENT: Mayor Johnson, Councilors Spencer, Betts, McCoy and Grotting  
ABSENT: None  
STAFF: City Administrator Kaltsas, City Attorney Vose  
VISITORS: Paula Savage

3. \*\*\*\*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 February 16, 2021 Regular City Council Meeting.
- b. Approval of Accounts Payable; (Batch #1 Checks Numbered 20293-20295, Batch #2 Check Numbered 20296-20317).
- c. Approval of Pay Request #3 From Rochon for the City Hall Renovation Project.

**Motion by Betts, second by Spencer to approve the Consent Agenda. Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.**

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

5. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- City Hall construction tour
- Pioneer Sarah Creek Technical Advisory Meeting
- Met with Commissioner Anderson regarding maintenance agreement
- MnDOT Open House

**Grotting attended the following meetings:**

- Met with Commissioner Anderson about fiber optic plans for City
- MnDOT Open House

**McCoy attended the following meetings: (Virtual)**

- None

**Betts attended the following meetings: (Virtual)**

- MnDOT Open House
- Sensible Land Use Coalition Meeting

**Johnson attended the following meetings: (Virtual)**

- Planning Commission Meeting
- National League of Cities Steering Committee Meeting
- Transportation Alliance Summit Meeting
- Love Inc. Annual Meeting
- Orono School Board Meeting
- Sensible Land Use Coalition Meeting
- Drug Task Force Annual Dinner
- Small Cities Conference Call
- MnDOT Open House

**Horner attended the following meetings:**

**Kaltsas attended the following meetings:**

- MnDOT Open House

6. Introduction and Conversation with Hennepin County Commissioner Kevin Anderson.

Anderson said he looks forward to diving in and has been made Chair of the Public Works Committees. He said he is looking forward to that role and also expanding the broadband opportunities. Johnson asked about Anderson's background. Anderson said he was in IT for 20 years most recently as a System Architect. McCoy noted there are big issues in Independence with broadband. Anderson said he would like to work on solutions such as putting fiber in as road work is being done so they may be tapped into easily by utilities. He hopes to improve access to a lot of communities by building up the infrastructure. Grotting asked if he had contacted the state about running fiber along some of the current projects. Anderson said he is talking to people and trying to get this vision cultivated. Grotting said it would be great if broadband could be made a priority.

7. Andrew Toumisto (Applicant/Owner) requests that the City consider the following action for the properties located at 4024 and 4084 Lake Sarah Drive South (PID No.s 02-118-24-43-0004 and 02-118-24-43-0005) in Independence, MN:

- a. **RESOLUTION 21-0302-01:** Considering approval of a minor subdivision to permit a lot combination which would combine the two subject properties into one property

Kaltsas said the subject property is located along the east side of Lake Sarah Drive South and just north of CSAH 11. The applicant constructed a home located on the 4084 Lake Sarah Drive South parcel and recently acquired the vacant 4024 Lake Sarah Drive South parcel. There is an existing home located on the 4084 parcel and a detached accessory structure located on the 4024 parcel. The properties are heavily wooded with wetlands on the eastern side. The property has the following site characteristics:

Property Information: **4024 and 4084 Lake Sarah Drive South**

Zoning: *Rural Residential*

Comprehensive Plan: *Rural Residential*

Acreage (Before): *Lot 1 – 7.31 acres*

*Lot 2 – 5.21 acres*

Acreage (After): *12.51 acres*

In 2015 the previous owner of this parcel subdivided the original property into 5 (5) buildable lots known as HENDLEY ADDITION. There were three lots created on Lake Sarah Drive South and two lots created on CSAH 11. The applicant initially purchased 4084 Lake Sarah Drive South (north parcel) and constructed a home on the property. The applicant recently acquired 4024 Lake Sarah Drive South. Following acquisition of the property, he located a small, detached shed on the north side of the property not knowing that it was not permitted without a principal structure. The City notified the applicant that the shed was not permitted and discussed possible solutions which included combining the two properties into one property. The applicant would like to combine the properties back into one (1) lot for the purpose of using the entire property as one property. There are several aspects of this property that should be noted by the City during consideration of the application:

1. The properties are heavily wooded and have a large wetland on the east side.
2. The existing shed is considered an illegal structure and will have to be removed if the lot combination is not approved. If approved, the detached accessory shed would be permitted and would meet applicable setbacks.
3. Based on the current zoning and combined lot size, this property could be subdivided again in the future. The minimum lot size in the RR-Rural Residential zoning district required in order for subdivision to be considered is 7.6 acres. The current standard would allow a maximum of two lots for properties less than 12.6 acres (this property will be 12.51 acres combined).
4. The existing home and accessory buildings will meet all requisite setbacks in the after condition.
5. The applicant is proposing to dedicate the new and amended 10' drainage and utility easements as shown on the proposed plan. The City will consider vacating a portion of the drainage and utility easement that is located along the east/west property line to be removed (see below). The applicant shall execute the necessary documents to clean up any easements as determined necessary by the City. The City will need to vacate the existing portion of the drainage and utility easement that runs along the existing east/west dividing line (see below). If the subdivision is approved by the City Council, the vacation public hearing and resolution will be considered at the next Council Meeting.

The proposed The proposed subdivision to allow a lot combination appears to meet all applicable standards of the City's zoning and subdivision ordinance. The combined lot will fit into the surrounding area and should have minimal impacts on the surrounding properties. The Planning Commission recommended approval of the requested minor subdivision with the following findings:

1. The proposed minor subdivision to allow a lot combination request meets all applicable conditions and restrictions stated Chapter V, Sections 500 and 510, Planning and Land Use Regulations and Zoning, in the City of Independence Zoning Ordinance.
2. Approval of the minor subdivision is subject to the vacation of the existing drainage and utility easements that run parallel to the existing east west dividing line.
3. The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
4. The Applicant shall execute and record the requisite perimeter drainage and utility easements with the county within six (6) months of approval.
5. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

**Motion by McCoy, second by Spencer to approve RESOLUTION 21-0302-01: A minor subdivision to permit a lot combination which would combine the two subject properties into one property for the properties located at 4024 and 4084 Lake Sarah Drive South (PID No.s 02-118-24-43-0004 and 02-118-24-43-0005) in Independence, MN. Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.**

8. Consideration of the State of Minnesota Department of Transportation and Hennepin County and City of Independence Cooperative Construction Agreement for the County Road 90 and TH 12 Roundabout Construction Project.

- a. The City Council is being asked to approve the cooperative agreement and authorize the Mayor and City Administrator to execute the agreement.

Kaltsas said the City has been discussing the TH 12/CSAH 90 2021 roundabout reconstruction project with MNDOT for several years. In December of 2020, MNDOT notified the City that they would be preparing a Cooperative Agreement that would pass down to the City MNDOT's responsibility for the future maintenance of several key elements of the newly constructed intersection improvement. MNDOT's internal policy relating to maintenance of key elements (described below) is to pass the responsibility down to the benefitting authority. For this project, the responsibility has been passed down to Hennepin County. Similar to MNDOT's policy, Hennepin County also has a policy which shifts responsibility down to the local municipality for the same items. There are several significant short and long-term potential impacts to the City resulting from this request. The City is being asked to take over the responsibility for the following maintenance items:

Maintenance by the City:

Upon completion of the project, the City will provide the following without cost or expense to the State:

- 1.1. Sidewalks. Maintenance of any sidewalk construction on the roundabout at T.H. 12 and C.S.A.H. 90, including stamped and colored concrete sidewalk (if any) and pedestrian ramps. Maintenance includes, but is not limited to, snow, ice, and debris removal, patching, crack repair, panel replacement, cross street pedestrian crosswalk markings, vegetation control of boulevards (if any) and any other maintenance activities necessary to perpetuate the sidewalks in a safe, useable, and aesthetically acceptable condition.
- 1.2. Maintenance of lighting at and approaching the roundabout, including all legs and within the roundabout as shown in Exhibit "A", will be shared between the State and the City. The City will be responsible for the hook up cost and application to secure an adequate power supply to the service pad or pole and will pay all monthly electrical service expenses necessary to operate the lighting facility. The City will be responsible for relamping or LED luminaire replacement, repair or replacement of all damaged luminaire glassware, loose connections, luminaires when damaged or when ballasts fail, photoelectric control on luminaires, defective starter boards or drivers, damaged fuse holders, and blown fuses for the entire system. For those poles on the local legs of the roundabout shown in Exhibit "A", the City will be responsible for knocked down poles including wiring within the poles, damaged poles, pullboxes, underground wire, and damaged foundations for all of the maintenance. The State will be responsible for the remainder of the lighting maintenance within the main roundabout and at the trunk highway legs of the roundabout.
- 1.3. Additional Drainage. No party to this Agreement will drain any additional drainage volume into the storm sewer facilities constructed under the construction contract that was not included in the drainage for which the storm sewer facilities were designed, without first obtaining written permission to do so from the other party. The drainage areas served by the storm sewer facilities constructed under the construction

contract are shown in a drainage area map, Exhibit "Drainage Area", which is on file in the office of the State's District Hydraulics Unit at Roseville and is incorporated into this

Agreement by reference.

**1.4. Related Agreements.** This Agreement will supersede and terminate the operation and maintenance terms of Lighting Maintenance Agreement No. 1000750 dated August 18, 2015, between the State and City, for the existing lighting system on T.H. 12 at C.S.A.H. 90. In addition to the aforementioned items, the initial agreement also required the City to be financially responsible for the maintenance of the newly created stormwater ponds. The City discussed this point of the agreement further with MNDOT and they ultimately agreed to remove the pond maintenance responsibility from the agreement. The City has the following concerns/considerations that should be noted by Council:

- **Lighting-** The City has previously agreed to maintain lights located within the MNDOT ROW. For those lights located along TH 12 at City street intersections, the City both owns and maintains the LED lights that were installed in 2017. The City pays for the cost of the electricity and all maintenance and replacement. It costs the City approximately \$25 (\$20 base fee, plus \$5 electricity fee) per light per month. The City is anticipating that there would only be one service charge for the entire 16 light system in this location. The City would anticipate approximately a \$1,200 annual cost for just powering the lights. The City would be responsible for the maintenance of the lights, wiring, controls, etc. for all 16 lights. The City is responsible for the cost of providing power and establishing the service to the lighting system. MNDOT was not able to provide an estimated cost for this requirement and did not investigate the cost with the electric contractor and or provider. It is estimated that this cost could range between \$4,000- \$10,000. The City would be responsible for the poles, replacement, and any damage for the 4 lights circled in red and included on Exhibit A (attached). The City had discussed this with MNDOT and requested that the Exhibit A be included in the agreement so that it was clearly defined. The City would need to contract with MNDOT or another source for the maintenance of the lights. The City has not realized a significant maintenance liability for the 6 LED lights installed in 2017. The City has had to replace one of the lights that was hit by a vehicle. The cost of the replacement was charged to the vehicle owners insurance policy. There will be some cost associated with the annual maintenance of these lights. The City would not own the lights and as a result cannot ensure the lights based on the current language in the agreement. The LMCIT has provided the following recommendation to the City should the City Council decide to enter into a Cooperative Agreement:

*If MNDOT owns them, then you need a contractual requirement in order to give you an insurable interest. I would recommend that you include a clause in your agreement where you are responsible for maintenance and repair/replacement that specifically identifies who is responsible for insuring them. If you want to insure them, you will need to specifically add them to your policy by giving an address description, and then describing what is covered, i.e. 25 streetlights, including lights poles and stands, valued at \$15K each.*

This type of provision would need to be added to the agreement.

- **Sidewalks-** The City is being asked to maintain the sidewalks and corresponding painted crosswalks as follows (shown in green below): *§ Maintenance includes, but is not limited to, snow, ice, and debris removal, patching, crack repair, panel replacement, cross street pedestrian crosswalk markings, vegetation control of boulevards (if any) and any other maintenance activities necessary to perpetuate the sidewalks in a safe, useable, and aesthetically acceptable condition.* The sidewalks are 10' in width and wrap around the outside of the roundabout. The City does not have equipment and or personnel to maintain the sidewalks and or crosswalks. The City would be required to repaint the crosswalks, repair individual sidewalk panels and plow snow within the MNDOT and HC ROW's. MNDOT typically makes several additional passes on their roads following a snow event. The City would not be able to continually monitor MNDOT's plowing operations and be able to maintain the sidewalks in a passable and safe condition.

The City does not currently have the capacity either financially or physically to take on the repair and replacement of the concrete sidewalks or crosswalk striping. If the City does not continually maintain the sidewalks, they would be potentially liable for injuries incurred by users of the sidewalks. Staff asked if MNDOT would add indemnification language to the agreement and told that it was not an option. The City has concerns relating to PW working within the HC and MNDOT ROW's. City staff does not have the number of workers required to safely flag and provide warning relating to the workers in the ROW.

Staff is seeking further direction and consideration relating to the proposed cooperative agreement with MNDOT. The City has noted in our discussions that the improvements do not include any City roads or right of way. The City is being asked to take some responsibility for the defined items related to the reconstructed intersection of a state highway and county highway. This agreement also raises questions relating to the TH 12/CSAH 92 reconstruction project that is currently in the process of being designed. The City was informed that a similar agreement will be requested for improvements relating to that project. The costs associated with the cooperative agreement are not budgeted at this time and may be difficult to accommodate depending on the extent of the responsibilities. City Council is asked to consider whether or not to approve entering into a Cooperative Agreement with MNDOT.

Johnson asked what the small cell technology would be used for and Kaltsas said they are used as a bolster for the 5G technology. Vose said it is appropriate to be looking at this technology and this type of agreement. He noted the maintenance obligation would mean taking on the liability if an accident occurred. Vose said maintaining the lights can be labor and capital intensive. Johnson asked who is responsible for noting when lights are out. Kaltsas said that is part of his concern with all of this that the maintenance would fall on the City which has limited resources.

Johnson said it doesn't seem compatible to have city equipment working on U.S. Highway. McCoy said he would be very opposed to taking over the maintenance of the sidewalks. Betts asked what the purpose of the sidewalk was and why was it needed. Vose said he has seen other roundabouts where there are not sidewalks and he said it would not be unreasonable for the City to say that it did not have the resources to maintain it. Spencer said he spoke with Commissioner Anderson and noted that the maintenance was going to be passed down to the City. He said the concerns are that there is no need to have pedestrian traffic across a roundabout. Spencer said he agrees with the others that a sidewalk is not needed, and it should not be a City responsibility. He said the lights need to be owned by the City if we are going to be made responsible for the upkeep on them. Spencer said there could be continuing discussions with Hennepin County. Kaltsas said he will pay the electric bill, but the City needs to be indemnified beyond that.

**9. Motion by Spencer, second by Betts to table the consideration of the State of Minnesota Department of Transportation and Hennepin County and City of Independence Cooperative Construction Agreement for the County Road 90 and TH 12 Roundabout Construction Project. Ayes: Johnson, Spencer, McCoy, Grotting and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.**

8. OPEN/MISC.

9. ADJOURN.

**Motion by Betts, second by Grotting to adjourn at 7:38 p.m. Ayes: Johnson, Grotting, McCoy, Betts, and Spencer. Nays: None. Absent: None. None. Abstain. None. MOTION DECLARED CARRIED.**

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Respectfully Submitted,  
Trish Gronstal/ Recording Secretary

