

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, APRIL 12, 2016 –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, Spencer and Grotting

ABSENT: Councilor McCoy

STAFF: City Planner & Interim City Administrator Mark Kaltsas, City Administrative Assistant
Horner, City Attorney Vose

VISITORS: Sue VanCleaf, Dan Boyum

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 March 22, 2016 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 16002-16045.
- c. Agriculture Preserve Renewal Applications.
- d. Approval of Staff Attendance at the May City Clerks Training Conference

Johnson stated he wanted to pull item (c) as it pertains to him.

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

Motion by Spencer, second by Grotting to approve agenda item (c). Ayes: Betts, Spencer and Grotting. Abstain: Johnson. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

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

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Vinland Center Walkabout
- Planning Commission Meeting
- Gehrman Land Inspection

- Wright-Hennepin Electric Annual Meeting
- Loretto Fire Department Pancake Breakfast
- American Legion Breakfast for Boy Scouts and Girl Scouts
- City Council Workshop
- Citizens Academy Graduation
- Met with Ende from Public Works
- Highway 12 Coalition Meeting

Grotting attended the following meetings:

- Sensible Land Use Coalition Meeting
- Highway 12 Meeting at Legislature
- City Council Workshop

McCoy attended the following meetings:

Betts attended the following meetings:

- Sensible Land Use Coalition Meeting
- Highway 12 Coalition Meeting
- Citizens Academy Graduation
- City Council Workshop

Johnson attended the following meetings:

- Senior Community Services Finance Committee Meeting
- Visitation for Agnes Kohlen former Greenfield Council Member
- Sensible Land Use Coalition Meeting
- Highway 12 Hearing at the Capital
- Wright-Hennepin Electric Annual Meeting
- Suburban Hennepin County Community Action Partnership Annual Meeting
- Two Meetings with the Minnehaha Watershed
- Met with Senators and Representatives at the Capital
- City Council Workshop
- Tim Maas reception
- Citizens Academy Graduation
- Regional Council of Mayors Meeting
- Orono School Board Meeting
- West Hennepin Chamber of Commerce Meeting
- Loretto Fire Department Breakfast
- Long Lake Fire Department Breakfast

Horner attended the following meetings:

- Citizens Academy Graduation
- City Council Workshop
- West Hennepin Chamber of Commerce Meeting

Kaltsas attended the following meetings:

- Maple Plain Fire Department Grant Meeting with Administrators for study to be conducted
- City Council Workshop

- City Council Meeting

7. PUBLIC HEARING – 2016 BUDD AVENUE STREET AND UTILITY RECONSTRUCTION PROJECT

- a. **RESOLUTION 16-0412-01** – Consider approval of resolution accepting feasibility and ordering project to commence.

Kaltsas said the City of Maple Plain is considering plans to reconstruct a portion of the jointly owned section of Budd Avenue. The Cities of Maple Plain and Independence each own half of an approximately 630 foot stretch of Budd Avenue that stretches from Newport Street on the north to the north property line of North Side Park on the south. Last fall the City of Independence overlaid the north half of the shared section of Budd Street. At that time, the City of Independence estimated that the total cost to overlay the north half of Budd Street would be \$9,732.82 (\$4,866.41 per City). The cost for the south half of the shared section of road would be \$20,069.86 (see table below). Based on the initial estimates, the total cost to overlay the shared portion of Budd Street would have been \$29,802.68. This cost would be split by both Cities with the cost per City equaling \$14,901.34. At that time, the City of Maple Plain discussed the possibility that they would like to reconstruct the utilities and their portion of road in the near future. It was noted that Maple Plain had existing utilities that run beneath the road for a portion of the shared section. It was generally agreed that the City of Independence would proceed with overlaying the north half of the shared section and that Maple Plain would look to reconstruct the south half of the shared section at a future date. No funds have been exchanged by the two Cities.

Maple Plain is now in the process of preparing a feasibility study to reconstruct the south portion of the shared road along with the utilities (sewer and water). During the feasibility study being conducted by Maple Plain, it was noted that one of the Independence residents is connected to the Maple Plain water system. Further investigation by Independence has found that it is likely that the resident along with the neighboring property (also in Independence) is also connected to Maple Plain's sewer system.

Based on this information, there are four issues that should be further discussed.

1. Maple Plain has prepared a preliminary estimated cost for just the road reconstruction of the Independence half (east side of road) of the southern half of the shared road section. The estimated cost for this reconstruction is \$33,790.00 minus the cost owed to the City for half of the north half (\$4,866.41) which equals \$28,923.59. The City of Maple Plain is considering assessing the residents in their City a portion of the cost to reconstruct the street. The amount of the assessment being considered has not been determined; however, they are contemplating an assessment of 35% or 50% of the total reconstruction cost. Independence has not recently considered a full road reconstruction project with assessment. The City could determine that an assessment similar to that being considered by Maple Plain is warranted.
2. Water Service – the property located at 1826 Budd Street is currently connected to the Maple Plain water system. Maple Plain would like the City of Independence to assess the resident for their share of the water line replacement costs. That cost is estimated between \$4,155.67 (35% assessed) to \$5,936.67 (50% assessed) based on a parcel basis. The City of Independence will need to determine if it will assess the amount for the water line replacement costs. The City of Independence will need to determine if it will assess the amount for the water line replacement costs.

3. Sanitary Sewer Service – the properties located at 1826 and 1862 Budd Street are believed to be connected to Maple Plain’s sewer service. Maple Plain would like the City of Independence to assess the resident for their share of the water line replacement costs. That cost is estimated between \$4,065.00 (35% assessed) to \$5,807.14 (50% assessed) based on a parcel basis. The City of Independence will need to determine if it will assess the amount for the sanitary sewer line replacement costs.
4. When the City of Independence adopted its 2030 Comprehensive Plan, it contemplated that a portion of the area guided for medium density housing would be serviced by the City of Maple Plain for sanitary sewer and water. The City of Maple Plain provided the City with a letter stating that in the future they would consider allowing the City of Independence to connect to their sewer and water.

Kaltsas said the City of Independence has identified approximately 550 additional units that could be developed in this area based on the comprehensive plan guidance of 4.3-7 units per acre. The plan does not consider how much of that area would be serviced by Maple Plain versus the City of Independence system located on Perkinsville Road. The existing 8” gravity sewer line that Maple Plain has under Budd Street is estimated to be able to accommodate approximately an additional 150-200 house connections. Maple Plain is considering replacing this line with a new line during the Budd Street reconstruction due to the pipes condition and age. The 8” pipe would allow some of the area in Independence that is guided for higher density to develop without an upgrade to the sewer system. Maple Plain has also provided the City of Independence with an estimate to upgrade the 8” line to a 10” line during construction. The 10” line would provide an additional capacity which would accommodate approximately 400 connections in the future. The cost for the 10” upgrade while the road is open is approximately \$12,000. Staff would like to further discuss the possibility of upgrading this line.

The Council is asked to provide staff with direction relating to the issues presented in this report.

Kaltsas introduced Dan Boyum (Maple Plain City Engineer).

Public Hearing Open

Boyum stated Maple Plain opened their bids at 7:00 a.m. this morning. He said there will be a follow-up meeting on Thursday. Boyum said there were seven bidders. Boyum said per recommendations from Independence Council and staff they would not be putting storm sewer or curbing on the Independence side. He noted discussions of increasing the pipe from an 8” to a 10” and using PVC piping. Boyum said the Maple Plain side would have storm sewer and they are planning on a sidewalk through the park. He said decorative lighting would also be put in along the sidewalk in the park. Boyum stated Maple Plain will use a combination of bonding, utility funds and assessments for the project. He said the Independence cost would be on a parcel basis. He said there will be a feasibility study done to determine special benefit analysis for the property owners. Boyum said there is a 35% or 50% option for the assessment and the numbers could go down after Maple Plain does their analysis. He said the project would be completed in spring 2017.

Vose asked for clarification on the point of the 50% or 35% assessment based on the benefit analysis being done by Maple Plain and whether the remaining amount would be paid in full by Maple Plain; in other words, Independence would not have to worry about it. Boyum said any remaining costs from the assessment on the Independence portion of the road would fall under the joint powers agreement. Johnson asked if there was a credit already in there for what was done by Independence. Kaltsas said that would be in the joint powers

agreement. Kaltsas said the worst case scenario would be \$42,400 for oversizing the pipe. Kaltsas noted the larger pipe is necessary for future projected growth in the area. Kaltsas said even with over sizing the pipe it will still not be enough to accommodate for the projected 500+ homes that will be developed in the future. Johnson said it was important to do the oversizing now to prepare for the future and avoid more costs down the road.

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

Motion by Spencer, second by Grotting to approve Resolution 2016-0412-01. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

8. HORSEMAN, INC. (APPLICANT/OWNER) REQUEST THAT THE CITY CONSIDER THE FOLLOWING ACTION FOR THE PROPERTY LOCATED AT 4504 COUNTY ROAD 92, INDEPENDENCE, MN (PID NO. 04-118-24-24-0001):

- a. **RESOLUTION 16-0412-02** – Approving an amendment to the existing Conditional Use Permit to allow an increase to the number of horses permitted on the subject property.

Kaltsas stated the property is located on the west side of County Road 92 N., north of CSAH 11. There are two properties which comprise the overall farm and commercial riding stable. There is a large barn with indoor riding arena along with several additional accessory buildings. The property is made up of primarily open pasture areas and an existing wetland/drainage area.

This item was tabled at the February, 2016 Planning Commission meeting to allow the City additional time to consider the comments provided by Three Rivers Park District relating to storm water runoff. The City's water resource consultant has reviewed the comments and provided the City with additional information to consider. Staff visited the property and reviewed the existing operation in more detail with the applicant. Staff offers the following additional notes for further consideration:

1. The applicant had previously worked with the MPCA to install a concrete manure collection structure. The applicant collects the manure from the barn and utilizes the structure to retain the manure until it is hauled off-site or land applied. The City is recommending that the applicant test the soil in the existing pasture areas prior to land application of the manure. If the soil has a high in-situ phosphorous concentration which exceeds the phosphorous uptake from the vegetation, the applicant would not be permitted to land apply the manure until such time as the phosphorus levels decrease.
2. The applicant has fenced off the drainage way and the majority of the wetland area identified by the City's water resource consultant. The fenced area includes an extensive vegetative buffer on both sides of the drainage way and wetland. No additional buffering or fencing is necessary.
3. The applicant currently manages the three large pastures areas by rotating their use during the growing months. The City could include a condition in the approval which would require that a minimum of 70 percent vegetative cover is maintained on the pasture areas during the growing season.
4. The City could additionally consider requiring annual monitoring of the surface water in the wetland / ditch system as a condition of the approval. Many industrial users have been required to conduct storm water grab sampling in recent years as a condition of the MPCA's Industrial Permit. This method would directly monitor the nutrient levels in the surface water itself and assure that watershed impacts

have been mitigated. We would recommend that two samples be obtained, one on the east side of the ditch near CR 92 and one on the west side, just prior to discharge.

The subject property has historically had a conditional use permit to operate a commercial riding stable which was granted in 1987 (see attached resolution). The conditional use permit was amended in 1994 to allow the applicant to split off an approximately 7 acre parcel on the northeast corner of the property. In 2015 the applicant approached the City about possibly adding a small addition to the front of the existing barn. The proposed addition initially considered included the possibility of adding a third bedroom to the care takers apartment. At that time, the City noted that the expansion may trigger the need to request an amendment to the conditional use permit. During that initial meeting with the applicant, the City discussed that the existing conditional use permit allowed for 40 horses on the property. The applicant stated that they currently have as many as 80 horses on the property and would like to amend the conditional use permit to be consistent with their current use.

Commercial riding stables are a conditional use in the Agriculture zoning district. The subject property is zoned Agriculture. The original conditional use permit allowed for 40 horses to be boarded on the subject property. The City generally allows 1 animal unit on the first two acres and then 1 additional animal unit for each additional acre of property. The subject property is approximately 92 acres. Of the 92 acres, the staff has calculated that approximately 20-25 acres is wetland/drainage way and 6 acres is covered with existing buildings and or parking areas. The applicant provided a calculation that indicates only 6 acres of land that is encumbered by drainage ways or wetlands. The City has historically calculated animal unit allotment based on gross acreage and not net acreage.

The applicant is now seeking permission to allow up to 80 horses on the subject property or double the number initially permitted. Based on the application of the City's zoning ordinance, approximately 90 horses would be the maximum permitted on this property. There are many recommended acreage standards for the management of horses on a given property. Ultimately the proper pasture and manure management is critical for maintaining and sustaining the land and managing the potential impacts of manure runoff. Utilizing the proper pasture and manure management plans, it is possible that this property could accommodate additional animal units. Staff is seeking direction from the City relating to the number of additional animal units that should be permitted by the City.

The applicant has a current feedlot permit that was recently renewed with the Minnesota Pollution Control Agency. The permit approved indicated that there were 70 horses currently being boarded on the property. The applicant also has an active manure management plan for the 70 horses on the property. The City would require the applicant to maintain a manure management plan, maintain all applicable permits relating to the management of manure on this property and retain a minimum of 1 acre per animal unit of gross acreage as required by the City's ordinance.

In addition to having a manure management plan, the applicant has made improvements to the storm water runoff from the property based on discussions and recommendations from the Minnesota Pollution Control Agency.

The applicant is proposing to comply with all other provisions of the initial conditional use permit. The City is not aware of any additional complaints or concerns relating to the operation of the commercial riding stable on this property.

The criteria for granting an amendment to the conditional use permit 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 City has visited the site and discussed the continued operation of the proposed commercial riding stable with the applicant. Given the location of the property on County Road 92 N. adjacent Three Rivers Park District property, the orientation of the buildings and their relationship to the surrounding properties, it is possible for the City to find that the amendment to the conditional use permit meets the minimum requirements for granting an amendment to the conditional use permit.

Planning Commissioners reviewed the request and solicited feedback from the public. Commissioners reviewed the recommendations from the City's water resources consultant, Three Rivers Park District and Pioneer Sarah Creek WMO. Commissioners agreed that the soil testing should be included as a condition of the approval and noted that the Horseman have made significant improvements to the property to enhance water quality. Commissioners wanted the City to work with the surrounding property owners to ensure that water quality is not degraded. With this in mind, the Commissioners recommended that the City work with Three Rivers and the applicant to determine the number of soil samples to be taken on the site prior to land application of the manure. Commissioners recommended approval with the noted conditions and findings.

Three Rivers Park District and Pioneer Sarah Creek WMO have provided verbal and written comments pertaining to the requested amendment. The City has not received any additional written or oral comments regarding the proposed amendment to the conditional use permit.

The Planning Commission recommended that the City Council approve the request for an amendment to the conditional use permit with the following conditions and findings should be included:

1. The proposed amendment to the conditional use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The conditional use permit will be amended to include the following additional conditions as follows:
 - a. No more than 80 horses shall be boarded on the property.

- b. The applicant shall be required to test the soil in the existing pasture areas prior to land application of the manure. If the soil has a high in-situ phosphorous concentration which exceeds the phosphorous uptake from the vegetation, the applicant would not be permitted to land apply the manure until such time as the phosphorus levels decrease. The number and location of the soil samples will be determined by the City.
 - c. The applicant shall maintain the existing fencing and associated vegetated buffer which separates the drainage way and wetland areas.
 - d. The applicant shall manage the three large pastures areas by rotating their use during the growing months. A minimum of 70 percent vegetative cover shall be maintained on the pasture areas during the growing season.
 - e. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution. The City shall cause for the applicant to review the soil conditions annually and prior to any manure application to the property.
 - f. The applicant and facility must operate in compliance with the permit from MPCA. A copy of the valid MPCA permit with amendments to be attached to and become a part of the conditional use permit.
 - g. Horse shows will require special approval from the City.
 - h. No renting of hack horses.
 - i. No riding on private land unless authorized by owners.
 - j. No parking on public roads.
 - k. Utilize appropriate management practices to control flies and odor.
3. The applicant shall pay for all costs associated with reviewing the application and recording the resolution.

Johnson asked if there was anything about buffers included in the Resolution. Kaltsas stated it was covered in item number 2c. Spencer noted how good the Horsemen group has been to work with in revising the CUP. Johnson noted their operation is used as a model.

Spencer asked if the language around soil testing was too general. Kaltsas said there is a standard set for vegetation as to the level of phosphorous. Spencer asked if they do the testing themselves and then have the watershed review it. Kaltsas said the City would work in conjunction with the watershed to review the test results. Johnson said he prefers to use a neutral party.

Motion by Betts, second by Johnson to approve Resolution 2016-0412-02. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

9. CONSIDER APPROVAL OF LOW BIDS FOR 2016 GRAVEL AND CHLORIDE TREATMENT CONTRACTS.

Spencer noted the largest item was the limestone. Johnson stated it holds up better especially with the magnesium chloride.

Motion by Grotting, second by Spencer to approve the bids for the 2016 Gravel and Treatment Contracts. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

10. CONSIDERATION TO DIRECT STAFF TO PREPARE AN AMENDMENT TO THE “NO WAKE” ORDINANCE.

Johnson stated this was a motion to allow Council to begin the process of amending the “no wake” ordinance to get it up to date and in-line with other cities. Spencer noted this process was started once before so it is a matter of picking up where it was left off.

Motion by Spencer, second by Johnson to start the process of amending the “no wake” ordinance. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

11. OPEN/MISC.

12. ADJOURN

Motion by Betts, second by Grotting to adjourn at 8:45 p.m. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. MOTION DECLARED CARRIED.

Respectfully Submitted,

Trish Bemmels/ Recording Secretary