

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JULY 26, 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, McCoy, Grotting

ABSENT: None

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

VISITORS: Nathan Rogers, Peter Beck, Rich Kirkland, John Hasse, Kathy and Ed Pluth, Barb and Tom Janas, LuAnn Brenno, Gabe Licht, Jack Wegmann, Lynda Franklin

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 July 12, 2016 City Council Meeting.
- b. Approval of Accounts Payable; Checks numbered 16316-16343.
 - a. For Information - Checks numbered 16344-16363 are Payroll Checks.
- c. Approval of an Amendment to Agreement with MnDOT Covering Maintenance of the Highway 12 Lighting.

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

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

Betts said she would like to add a discussion on having a Park Board.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Lake Sarah Improvement Association Meeting and Picnic

Grotting attended the following meetings:

- Ultimate Frisbee Tournament

McCoy attended the following meetings:

- Alexandria Law Enforcement Skills Graduation

Betts attended the following meetings:

- Police Commission Meeting

Johnson attended the following meetings:

- National League of Cities/ Small Cities Meeting
- Police Commission Meeting
- Met Council Land Use Advisory Committee Meeting
- Legacy of Delano Open House
- Vikings Stadium Ribbon Cutting
- Senior Community Services Finance Meeting

Horner attended the following meetings:

- Hennepin County Assessors Meeting
- Hennepin County Election Judge Training
- Alexandria Law Enforcement Skills Graduation

Kaltsas attended the following meetings:

7. **ORDINANCE AMENDMENT TO SECTION 915 - REGULATION OF LAKE SARAH SURFACE USE.**

- a. **ORDINANCE 2016-01:** An amendment relating to the removal of the no-wake provision to be consistent with the ordinance regulating Lake Independence.

Motion by Spencer, second by Betts to approve the amendment to section 915 of Ordinance 2016-01. Ayes: Johnson, Betts, Spencer, McCoy, Grotting. Nays: None. Absent: None. MOTION DECLARED CARRIED.

8. **A PROPOSED TEXT AMENDMENT TO THE CITY OF INDEPENDENCE ORDINANCES AS FOLLOWS:**

- a. **ORDINANCE 2016-02:** A proposed amendment to Chapter 5, Sections 510 and 515 – establishing regulations which would permit and govern certain Solar Energy Systems within the City of Independence.

Kaltsas said the Planning Commission has been working on the development of a solar energy ordinance following the submittal of an application for a text amendment to permit large scale solar energy systems within the City. The development of the solar energy ordinance occurred during a series of public hearings held over the last six months. The Planning Commission considered a wide array of information, public input and research in developing the recommended language. A key consideration made during the process pertains to large scale solar energy systems or community solar gardens. Ultimately the Planning Commissioners recommended an ordinance which would not allow community solar gardens in the City. Commissioners

noted that they did not feel large scale systems were a compatible land use with the predominantly residential and agriculture uses in the City.

The Planning Commission did develop an ordinance which provides for solar energy systems in the City. The ordinance developed defines several types of solar energy systems as well as provides qualifying site and system/site specific design criteria pertaining to residential or smaller commercial scale solar energy systems. The ordinance establishes where and what types of systems are permitted, accessory or a conditional use. The ordinance further provides detailed standards regulating the placement, size, types and other criteria for solar energy systems permitted within the City. The recommended ordinance establishes and defines essentially two types of solar energy systems; building integrated (roof mounted), and ground mounted (not attached to a building or accessory structure and typically mounted on a frame or pole). Building integrated systems would be permitted as an accessory use in all zoning districts of the City. Ground mounted systems would be a conditional use in all zoning districts of the City. The standards and performance criteria pertaining to each type of systems is further detailed in the attached recommended ordinance.

Kaltsas noted the City has received a great deal of public input throughout the development of this ordinance. New public input has been attached to this report for further consideration.

Kaltsas said the Planning Commissioners recommended approval of a text amendment to permit and provide regulations pertaining to solar energy systems. The recommended ordinance language has been incorporated into an ordinance which is attached to this report.

Grotting asked if this was limiting use to personal use on properties. Kaltsas said not exactly; that a building in zoned commercial light industrial use could get a conditional use permit for a ground-mounted system and it could also be an accessory integrated use on a building. Grotting asked about an individual who wants to sell back and how this affects their personal use. Kaltsas said the ordinance does not prohibit or restrict a person from selling back into the grid.

Betts asked if a commercial building had a very large roof if they could have the panels covering the whole roof. Kaltsas said they could as there was not a limitation on accessory use. Grotting noted more than 500 square feet could be permitted in residential as well. Kaltsas said that was correct.

McCoy asked about the screening requirements and what was designated as "adjacent residential". Kaltsas said the spirit of what they were getting at is a sight line and it is difficult to define. He said if the panels could be seen it would have to be screened. Vose said Kaltsas' point was if the system was screened by topography no additional screening would be required. McCoy said solar may fit better on the front yards are some of the large properties in the City than in the back yards where it may be may not be screened as well. He thought the language was tight around the screening conditions. Kaltsas said this was discussed by the Planning Commission and they felt you could wholly screen something and it could still be obtrusive element. Kaltsas said the Planning Commissioners felt that 90% of the time these systems would be installed in a backyard but if someone wanted to make a case for a front yard system they could lobby for a variance.

Grotting said it would be hard to address all zoning districts as a whole and they should be addressed individually pertaining to the ordinance.

Johnson said this was very discriminatory in his opinion as a few individuals were trying to dictate what looks good and what does not for the City of Independence. He said this was closing our minds to the future. Johnson said land owners should have a right to use their land for green energy and should not be prevented

from it by someone that does not want to look at it. Grotting said that residents make good decisions and should be able to decide where to park their implements etc.

Vose stated the reason this process is taking place is that there is an applicant with an application to amend the City's ordinance as it relates to a specific solar use. He said the City needs to act on this request or deny it. Vose said if it was going to be denied it needed to be done in writing within the 60 day rule. He noted that if the Council was not comfortable acting on the other parts of the amendment beyond the application request that those parts did not need to be acted on at this point but rather just the application itself could be addressed.

Betts said the Planning Commission has done their due diligence and government should represent the people. She said the people have made it clear what they want and she would make a motion to move the Planning Commission's recommendation. There was not a second to her motion. Spencer said he would like to hear from the applicant before proceeding with the motion. Johnson invited the applicant to address the audience.

Nathan Rogers with Ecoplexus said communities benefit from solar gardens and all of the power generated goes into the grid. He said subscribers get a credit on their bill from Xcel Energy and the savings can be very substantial. Rogers said a project in Colorado will save subscribers in excess of a million dollars over a 25 year period. Rogers said community solar has many advantages with one being that they produce power close to the load which is much more efficient. Current energy models waste as much as 30% of power due to long transmission lines. Solar is a free resource whereas natural gas can be very costly. There are numerous pollutants associated with fossil fuel whereas solar has none. Rogers said there has been a lot of talk that if solar was allowed in the City would they spread all across the City and how that could be regulated. Rogers noted they are looking at specific criteria to install solar gardens so that limits where they would be implemented. He said they are placed on 40 contiguous acres which needs to be flat and free of trees. There cannot be any wetland or streams. Rogers said they are ideally looking for sights within 2 miles of an Xcel substation. Xcel cannot charge subscribers for the cost of installing the solar gardens. The costs of developing and installing the gardens are paid by Ecoplexus. He said the landowner needs to sell or agree to a long-term lease. Rogers said that at most there would be 3 solar gardens in Independence which represents less than 1% of the land.

Rogers said Ecoplexus use completely non-toxic materials and ensures there solar gardens are aesthetically pleasing. The units are normally 8-10 feet high and they use deer fencing and reseed under the panels with low growing grasses. Rogers said these are nuisance free developments that do not produce noise or gases, etc. He said there are no traffic issues other than maybe the three or four months it takes to install the unit. He noted there is no dust or odor and this is a suitable use for RR and AG areas. Rogers said this is similar use to cell towers and wind turbines which are already allowed in the City of Independence. He said they have done exhaustive research and have found the solar gardens have not had an effect on property values. Rogers said electricity is a need not a luxury.

Vose stated the Planning Commission was in dispute over whether or not the land values would be affected or not and did not know if that needed to be opened again for discussion.

Johnson asked if the limited number of gardens that Rogers was talking about was from his company only as there are other competing companies out there. Rogers stated there were competing companies but since no others have come forward they would have a hard time bringing a project forward at this point. He said all solar gardens have to be online one year from now. A project normally has a gestation period of 18+ months. Rogers said this comes from the agreement reached between Xcel and the utility commission.

McCoy asked if solar power was going to be our savior over fossil fuels why was there a deadline attached to implementing it. Rogers noted Xcel is not crazy about solar as they are public company and are obviously beholden to their investors. It is in Xcel's best interest to limit the pace of development as it will economically affect them. Johnson asked if there are incentives from Xcel for people to put in solar gardens that end after this deadline. Rogers said not beyond the credits provided.

Betts asked if the roof-mounted systems only have benefits for the individual homeowner. Rogers said that was correct.

There was discussion around the actual vote for tonight and what exactly was being addressed whether it be the application as presented or the ordinance. Vose stated the history behind the statute. Johnson noted he was not ready to vote an ordinance tonight but would be prepared to vote on the application as the Council needed to be cognizant of the 60 day rule.

Peter Beck stated that the timeline is not the issue. He said the application is to approach the City to see if they are willing to incorporate an ordinance that addresses the statewide policy being implemented on solar gardens. Kaltsas said following the technical process pushes the deadline date at this point to August 15, 2016.

Janas said he felt this process was derailed. He said the City should have been looking at the ordinance but instead immediately went to this specific application. Janas said solar gardens can be totally invisible to adjacent properties so why limit them to 500 square feet. Johnson said the Council tried working on this solar issue before with previous staff and now that it has come back the applicant becomes the sounding board for the whole issue unfortunately.

Johnson asked Rogers about the money they proposed putting towards Nelson Road. Rogers stated if the ordinance went through and the applicants CUP or IUP was approved they would pave Nelson Road.

Johnson asked why the solar garden in Rockford was on a slope. Rogers said it could be a south facing slope but ideally flat property is the preferred location.

McCoy asked who performs the maintenance. Rogers stated the solar maintenance providers perform any maintenance. Rogers said there is a remote shut-off called a recloser.

Brenno said her concern is that the Council has just spent an hour listening to the developer again. Brenno referenced Bett's comments that this has already been through the Planning Commission for review. She said she disagrees with the comments that the opposition is coming from a small group of people. Brenno said she mailed flyers to every residence in Independence in March. She said she has been to all of the meetings and she did not hear them talking about the Janas property. Brenno said many residents made public comments and the vast majority does not want solar gardens in the City. She urged the Council to be more cognizant of the work the Planning Commission has done with the ordinance.

Franklin said she disagreed with the comments about this being discriminatory and that property owners should be able to do whatever they want. She noted the comprehensive plan that is for the good of the City. Franklin said this is an application before the City. She asked for clarification on the ramifications of a zoning change and if it would affect the whole City. Vose said it may but it all depends on the nature of the request. He said a zoning change is not generally property specific. Franklin said that is why it is important to examine how a zoning change would affect everyone. Franklin said everyone has worked hard to make the City beautiful. Franklin asked who the customer base for this type of energy would be as she had heard it would

not be local residents. She also wanted to know what would happen after the five year mark if it was determined this was not a viable source, what would be done with the solar garden at that point.

Johnson said Council should vote on the application or get in writing that the applicant would not hold them accountable to the 60 day rule. Spencer said they could take an informal poll and see where everyone sits and if there is a lot of dissention than table it. He said there has been as much time as any spent on this and the Planning Commission has done a lot of work on it so it would make sense to act.

Johnson said his personal feeling is that it is very discriminatory to the Ag district and that needs to be included in the ordinance as well. Betts said they should vote on the ordinance and the recommendations the Planning Commission has put before them. McCoy said he is not against solar gardens but he does not like picking and choosing what will be allowed. He said this should be part of the comp plan discussions. McCoy said that other avenues of revenue for land owners have been turned down and noted it is hard for large Ag properties to make it. He said he would be opposed to approving solar farms individually as it should be part of the comp plan review instead. Grotting said he has problem with the Ag valuation aspect and if this is an acceptable use. He said he is not in favor of the ordinance in its current state. Spencer said he understands the benefits of solar and knows a lot of communities are dealing with this issue right now. He said he respects the work the Planning Commission has done and supports their recommendations.

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

Motion by Spencer, second by Betts presented by Ecoplexes for a solar garden. Ayes: Betts, Spencer and McCoy. Nays: Grotting and Johnson. Absent: None. MOTION DECLARED CARRIED.

Vose stated this is an oral denial of the application but there would have to be a written denial that states the reason for denial. He said that could be added to the agenda for the special session on August 3rd and the Council could formally act on it at that time.

9. OPEN/ MISC.

Betts said there is some money in the park fund now and it would be nice to get a park board organized again. Johnson said we could advertise it again in the next newsletter but noted this was done a year ago and there were no responses.

10. ADJOURN

Motion by Spencer, second by McCoy to adjourn at 9:30 p.m. Ayes: Betts, Spencer, McCoy, Grotting and Johnson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully Submitted,

Trish Bemmels/ Recording Secretary