

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, JUNE 23, 2015 –7:30 PM

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 Wenck,

ABSENT: Councilor Fisher

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

VISITORS: Lance Gyllenblad, Michael Kuka, Bonnie Kuka, Lynda Franklin, Mike Kuka, Marlene Little

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 June 9, 2015 meeting.
- b. Approval of accounts payable; ending June 15, 2015 (Check #'s 15078-15112).
- c. Approval of six month step movement for Trish Bemmels – Administration.
- d. Approval of annual step movement for Terry Reid – Public Works.
- e. Approval Resolution 15-0623-02 proposing change to employee overtime compensatory time policy.
- f. Call for a public hearing on July 28<sup>th</sup>, 2015 at 5:30 p.m. to discuss the Independence/Maple Plain joint services study.
- g. Approval of Resolution 15-0623-01 to accept \$1,000 donation from Westonka Jaycees to WHPS for Police Reserve vests.
- h. Approval of Non-City Assembly Permit Application for Greg Williams' Ultimate Disc Tournament at the Twin City Polo Club July 18-19, 2015.

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

- Johnson added Resolution 15-0623-03 for bond sales and the date change from July 14<sup>th</sup> to July 28<sup>th</sup> to the consent agenda.

**Motion by Spencer, second by Wenck to approve Resolution 16-0623-03. Ayes: Johnson, Betts, Spencer and Wenck. Nays: None. Absent: Fisher. MOTION DECLARED CARRIED.**

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.
- Spencer added an item to appoint a secondary backup for the Pioneer-Sarah Creek Watershed in the event Joe Baker is not available.
  - Spencer added an item to review the costs associated with the repairs Ende has done on the flow meter on County Rd 11.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- John Barton retirement
- Met with Larry Ende from Public Works on sewer, roads and Public Works budget
- City Council Work Session

**Wenck attended the following meetings:**

- Shared Services Meeting with Maple Plain
- City Council Work Session

**Betts attended the following meetings:**

- Northwest League of Cities Meeting
- City Council Work Session

**Johnson attended the following meetings:**

- Energy & Environment Meeting in Salt Lake City
- June Sutton 100<sup>th</sup> Birthday
- Hennepin County Healthy Collaborative Meeting
- Shared Services Meeting with Maple Plain
- Minnesota Healthy Collaborative Meeting
- Met with Jeff Johnson on Senior Services
- Suburban Hennepin County Community Action Partnership Meeting
- Conference call for League of Minnesota Cities
- John Barton retirement
- Met with Wes Bendickson
- City Council Work Session

7. Update from Jake Coleman, Representative Erik Paulsen's District Outreach Coordinator.

Coleman spoke about new bills that have been passed on the legislative front. One helps stop human trafficking which according to Coleman is a much larger problem than people realize. Coleman stated Minnesota is the thirteenth largest state where people are picked up. The bi-partisan effort with Senator Klobuchar provides for safe harbor laws where the children that get picked up are treated as victims instead of criminals.

Coleman said another law that was passed addresses first responder survivor benefits not being taxed as they were in the past. The family of the deceased responder is able to receive their due benefits tax-free.

Coleman stated a law that repeals the medical device tax was recently passed and they are hopeful it will pass the House.

Coleman said to keep in mind that anyone traveling to D.C. is welcome to contact the office and they would be happy to help schedule tours and answer any questions.

Johnson thanked Coleman for the information and taking the time to address the Council.

8. Director of Public Safety, Gray Kroells – Activity Report for the month of May, 2015

Kroells stated that for the year to date WHPS has handled a total of 3,213 incident complaints: 932 incidents in Maple Plain and 2,014 in Independence. This is an increase of 436 incidents compared to the same time frame last year. Kroells highlighted 44 incidents. Kroells said they have a lot of incidents where drivers are impaired simply from being too tired to drive. Another incident involved a male walking home from Hamel to Delano who was intoxicated. An officer gave him a ride home. Kroells said there was swamp fire in the 2500 block of Nelson Road. Delano Fire responded to this incident. Kroells stated there was an arrest of a 62 year old male from Maple Plain for 2<sup>nd</sup> degree DWI. At an event at the Twin Cities Polo Club on May 10, there was a medical call for an unconscious female who was transferred to the hospital.

Kroells stated a significant case happened May 12<sup>th</sup> with the theft of mail from a mailbox in the 1000 block of Co Rd 19 in Independence. He stated a suspect stole mail then changed the amounts on a personal check and cashed it at a Walmart in Cambridge. He said this case is under investigation.

Kroells stated on May 16<sup>th</sup> there was a citation for possession of marijuana. He said there was a domestic assault/ interference with a 911 call on May 20<sup>th</sup> and a resulting arrest of a 25 year old female.

Kroells also spoke about the large grass fire that occurred on May 21 in the 3500 block of Independence Road. A permitted grass fire got out of control. Ten fire departments responded and the DNR helicopter as well. Kroells stated the emergency response went very smoothly with all parties working together. The fire caused property damage to several residences properties and electrical poles.

Kroells stated the Hennepin County Dispatch Coalition recognized WHPS with a special award for the measures they have implemented to make the Highway 12 corridor safer. He said it was an honor and a great event with valuable information on the hazards of texting and driving.

For a full version of the WHPS report please see the City of Independence website <http://independence.govoffice.com/> and go to City Council packets 6-23-15.

9. Mike Kuka (Applicant/Owner) requests that the City consider the following actions for the properties located at 4405 County Road 92 N, Independence, MN (PID No's 04-118-24-24-0002 and 04-118-24-31-0001):
  - a. A conditional use permit to allow a commercial riding stable on the subject property. The stable will host rodeo, horse related and similar events within the existing agriculture accessory structure on the property.

Kaltsas stated the building is located on the North parcel of the property and is without a principal structure. He said the applicant has filed an application (2014) and is working with the City to meet recommendations. One issue with the property is the building is rated for limited occupancy. Due to building codes and the fabric the roof is currently made out of, the City Building Inspector has approved the maximum occupancy at 49 people. The applicant has requested having larger groups so the Building Inspector and Planner have met with the applicant and outlined the changes that have to be made before larger occupancy events may be held.

Kaltsas stated the applicant has put together a proposal where they would have the traditional hosting capabilities of 49 people. Throughout the year, the applicant is proposing 15-18 special events that would be on a larger scale (not to exceed 150 people). The applicant is seeking to board 18 horses which is code.

Kaltsas said the City would need to look at the property to see if it can meet the specific requirements laid out in the report. A simplistic overview of these items would be mitigating sound and noise, manure management, fire regulations, building codes, sanitary requirements, storm water and lighting codes. A complete review of items is listing in the staff report in the packet materials. Kaltsas stated the building is located in the Delano Fire District and the applicant has worked with them on creating an acceptable road plan into and around the building making it maneuverable in the event of a fire emergency.

Kaltsas stated the applicant would have to provide sanitary sewer and work with the Building Official on the number of bathrooms required, etc. Kaltsas stated there are specific parking requirements that will have to be met as well as parking management when events are in progress. Kaltsas stated the applicant needs to provide a photometric and light plan.

The applicant has submitted a landscape plan that meets the requirements of the City. Kaltsas said sound could potentially be a concern and he did visit the site to listen to how impactful that could be on neighbors. He did note that the Shrine property is the closest neighbor at a half mile distance. Kaltsas stated the Planning Commission is proposing the sound is turned off by 10:00 p.m.

Kaltsas said the applicant is proposing a pond and drainage areas on the North side of the property to deal with storm water. This plan has been approved by the City and Sarah Pioneer Creek Watershed Management. Access will be on County Road 92 and Hennepin County has reviewed and approved that according to Kaltsas.

Kaltsas said the City has recommended moving the lot line or building a principal structure in order to align with City code.

Kaltsas said a Public Hearing was held and one anonymous comment stated they were concerned with noise. Since that Public Hearing the applicant has provided the Planning Commission with a petition signed by 10 or 12 surrounding property owners who supported the use of this property as well as a representative of the Shriners who spoke in favor of the CUP as well.

Kaltsas said after lengthy discussion the Planning Commission is making a recommendation to the City Council to approve the CUP but the recommendations in the staff report must be met as well as the following additions:

1. The applicant would have to address any mud issues that occur on County Road 92 as a result of the property usage.
2. The hours the sound system will be in use shall not exceed 10:00 p.m.
3. Appropriate signage on County Road 92 so emergency vehicles are able to identify the entrance.

4. The zoning issue would have to be resolved so this building is indeed an accessory structure.

Kaltsas stated staff is looking to the City Council in how to proceed. The City's time to review the application expires in early July.

Johnson asked for clarification on item #14. Kaltsas stated it should read: Sound shall comply with all applicable standards pertaining to sound limitations. Wenck stated that #13 should read 10:00 p.m. Wenck asked if item #1 was enforceable. Vose replied that the lot line rearrangement is a legal process and is subject to timelines and reviews. He stated this is not an easy process in comparison to the physical property changes that have to be made as well. Vose stated this is not as easy to navigate as the other conditions. Wenck asked if #1 could then be enforced. Vose stated it was of a different nature and the Council could recommend that the CUP may not go forward until the lot line and other issues are corrected.

Kaltsas stated they could do a rearrangement and remove the lot line.

Johnson asked Kuka how this CUP came about and was it when he met with Satek. Kuka stated he met with Satek and presented what he wanted to do and asked how he would go about it. Kuka said he has a business partner and they want to protect the 80 acres. He said as long as it is in the family they don't need a lot line. Vose asked Kuka if he owned the land. Kuka said he did. Vose stated he could have the lot line moved as the property owner. Kuka stated he does not have a problem with building a house but needs some time to generate income to do that. Spencer asked if Kuka was opposed to moving the lot line to include the residence currently on the connecting property. Spencer said as the building stands they cannot grant a CUP. Spencer said the building should not be where it is to begin with so the lot line problem has to be addressed. Kuka stated he is going to explore the option of moving the lot line but needs to consult with an attorney. Spencer stated once the lot line is redrawn then the building and CUP applications may be addressed. Spencer stated the building has to exist legitimately before they may proceed with any other clearances.

Wenck asked if we are looking at a time expansion or what can be done tonight. Vose stated an action they could take at the meeting would be to table the item and extend it for sixty days. Vose said the current lot line needs to be addressed regardless as it appears to cut off a corner of the building and has other configuration issues. Johnson said he thought it would be a neat thing for the City to have and it is just the underlying issues that need to be addressed first.

**Motion by Wenck, second by Betts to table the application until the next City Council meeting. Ayes: Johnson, Betts, Wenck and Spencer. Nays: None. Absent: Fisher. MOTION DECLARED CARRIED.**

#### 10. Review and Consider Authorization to Prepare Sewer Rate Study

- a. Consider engaging City's financial consultant to prepare sewer rate study

Kaltsas stated they received three bids for the sewer study. He said ABDO was the least costly. Kaltsas met with Steve McDonald from ABDO who said they would do the study so the City is able to identify the gaps. Kaltsas said they would make recommendations on how to close the financial gap. Kaltsas said they are proposing a fee of \$3000.00 to do the study.

**Motion by Spencer, second by Betts to accept the ABDO bid for \$3000.00 Ayes: Johnson, Betts, Wenck and Spencer. Nays: None. Absent: Fisher. MOTION DECLARED CARRIED.**

11. Lindgren Land/Independence Sewer Project – Discussion/Consider Enforcement of Properties Not Completing Sewer Connection.

Kaltsas stated residents were given until December 31, 2013 to connect to City sewer. Residents were notified by the City in November of 2013 of the December deadline. He said there are still approximately seven (7) properties that have not connected to the sewer line. In October of 2014 staff was directed to review the potential costs associated with the City connecting the remaining houses to the City's sewer and assessing the amount back to the residents.

Kaltsas said the City's engineer has provided an estimate which identifies approximately \$100,000 in construction to make the remaining connections. He said staff has consulted with the City's accountant to determine if the City has the available funds to cover the cost of making the connections and financing the construction costs for approximately one year (time between paying for the improvements in 2015 and receiving tax payments in 2016). Based on limited available sewer funds, it is recommended that the City Council hold off on making a decision on this issue until the sewer rate study has been completed. Following completion of the sewer rate study, Council will have a better basis to make a decision that would utilize City funds.

Kaltsas noted the cost was substantial and the cost would have to be carried for one year. He said the rate study would take 3-4 weeks to complete. Spencer asked if the cost for the seven would be an actual or averaged cost. Kaltsas said it would be actual cost. Johnson asked if Hennepin County had any funds available for sewer connection that people could apply for. He asked if anyone has said they would not do it unless the City does it for them. Kaltsas said there were some that have said that.

Wenck stated the Council should wait a month until the study comes back. Betts asked how late the project could get done in the fall. Kaltsas said we could go as late as we want but would have to have the costs and assessments approved first.

**Motion by Spencer, second by Wenck to table the discussion until the July 28, 2015 City Council Meeting. Ayes: Johnson, Betts, Wenck and Spencer. Nays: None. Absent: Fisher. MOTION DECLARED CARRIED.**

12. Discussion - Consideration of Contribution to Maple Plain Entrance Sign.

Betts stated she did not think it was big advantage for us and that we should wait and just rent the sign if the City has something they want to put on it. Betts said we did not have the money for it.

Wenck said the City should do it as part of our shared services efforts with Maple Plain. He said it was a great venue and part of our Fire Department.

Spencer stated he felt it was an expensive investment and the existing sign is fine. He does not see a benefit to the residents of Independence to warrant spending \$30,000.00 on a sign.

Johnson stated they gave us different amounts we could contribute and 30,000 was half of it. He said personally would like to share a little in the cost but doesn't feel the benefits are there for residents of Independence.

Spencer stated that we are very good at sharing our equipment and services without asking Maple Plain to pay for half of our equipment, etc.

**Motion by Betts, second by Spencer not to participate in the cost of the Maple Plain sign. Ayes: Johnson, Betts and Spencer. Nays: Wenck. Absent: Fisher. MOTION DECLARED CARRIED**

**13. SECONDARY BACKUP FOR PIONEER-SARAH CREEK WATERSHED**

Spencer stated Joe Baker is the current volunteer representative and he is very skilled and wonderful. Spencer stated he serves as his back-up but they would like to appoint Beth Horner as a secondary back-up in the event neither of them is able to make it. Spencer said then we would have representation at all meetings. He stated they would make sure she had the agendas and gets on the mailing list, etc.

**Motion by Spencer, second by Betts to appoint Beth Horner as secondary back-up for the Pioneer-Sarah Creek Watershed. Ayes: Johnson, Betts, Wenck and Spencer. Nays: None Absent: Fisher. MOTION DECLARED CARRIED**

**14. SPENCER ADDED AN ITEM TO REVIEW THE COSTS ASSOCIATED WITH THE REPAIRS ENDE HAS DONE ON THE FLOW METER ON COUNTY RD 11**

Spencer stated he has met with Ende and there is an issue with a flow meter failing at County Road 11 and Townline Road. It has two different components that are not working. Spencer stated Ende could have a new flow meter installed for around \$6700.00

**Motion by Spencer, second by Johnson to order the new flow meter. Ayes: Johnson, Betts, Wenck and Spencer. Nays: None. Absent: Fisher. MOTION DECLARED CARRIED**

**ADJOURN**

**Motion by Wenck, second by Spencer to adjourn the City Council Meeting at 9:00 p.m. Ayes: Johnson, Betts, Wenck and Spencer. Nays: None. Absent: Fisher. MOTION DECLARED CARRIED.**

Respectfully submitted,

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Trish Bemmels, Recording Secretary