

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, AUGUST 25, 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, Fisher, Spencer and Wenck,

ABSENT: None

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

VISITORS: Elmer Schefers, Lynda Franklin, John Bauman

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 August 11, 2015 meeting
- b. Approval of City Council minutes from the August 5, 2015 workshop
- c. Approval of accounts payable; Checks Numbered 15285-15313
- d. Emergency Management Mitigation Strategies – Council Information
- e. Approval of Large Assembly Permit for the Cystic Fibrosis Bicycle Ride (September 19, 2015)
- f. Approval of the Vinland National Gambling Permit
- g. Adoption of the Post-issuance Debt Compliance Policy for Tax-exempt and Tax-advantaged Governmental Bonds - **Resolution 15-0825-01**

**Motion by Wenck, second by Betts to approve the Consent Agenda with Johnson noting that the Cystic Fibrosis Bicycle Ride was contingent upon West Hennepin Public Safety approval. Ayes: Johnson, Betts, Fisher, Spencer and Wenck. 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 & COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- Met with Mike Kuka
- Worked at Maple Plain Days

**Fischer attended the following meetings:**

- None to report

**Wenck attended the following meetings:**

- None to report

**Betts attended the following meetings:**

- None to report

**Johnson attended the following meetings:**

- Maple Plain Days Parade and Events
- West Hennepin Pioneer Museum Annual Meeting
- Old-Timers Picnic at City Hall
- League of Minnesota Cities Meeting on the local economy
- Haven Homes Advisory Committee Meeting
- Deb Taylor, Senior Services Community Executive Director Meeting
- Met with Mike Kuka
- SnoMad snowmobile club dinner at Corcoran Park
- Delano School Board Meeting

**Horner attended the following meetings:**

- Election Training
- Worked at Maple Plain Days

**Kaltsas attended the following meetings:**

- None to report

7. Presentation by Hennepin County Commissioner Jeff Johnson

Commissioner Johnson stated he was here to give an annual update and answer questions. He said they are currently going through the budgeting process and will be giving the max levy sometime in September. He said he does not support the suggested levy which comes in a little above five percent. Johnson highlighted the 911 Communications Facility which has been open for about one year now. He said the 911 facility is a huge asset for Hennepin County. He said it was not a cheap facility to build at 34 million dollars but it was a necessity.

Mayor Johnson said he noticed the new tower. Commissioner Johnson stated the wide steeple will be removed if it has not been already as it has not been used in fifty or sixty years.

Commissioner Johnson noted the well-publicized child protection failures. He said this has forced leadership to look at the way the department is set-up and the current culture as it is not working and needs to be addressed. He noted that this is taken seriously and it will take some time but changes will be made.

Commissioner Johnson also noted that a 25 year bike plan has been passed that will increase bike lanes throughout Hennepin County by 46 percent at a cost of 175 million. He said his concern is that he hears complaints daily on the lack of funds to keep up with road repairs so he questions spending 175 million on bike lanes when we cannot fund the roads in general. He also noted that up keep of the bike trails is not addressed with the 175 million. Mayor Johnson asked where the new the miles would be added in. Commissioner Johnson said the majority would be off-road, separate bike paths.

7. Director of Public Safety, Gray Kroells – Activity Report for the months of June and July, 2015

Kroells stated there were 8 DUI's in the month of June. He outlined the timeframes of the arrests and noted that most were between 3:00 p.m. and 8:00 p.m. Kroells stated most people believe that DUI's occur late at night but this shows that this is not necessarily the case.

He also highlighted some incidents individually. Kroells said at County Road 110/ Luce Line Trail there have been break-ins at the parking lot during the day. He said people leave their purses, computers and other valuables in their cars when they use the trail and come back to find the windows smashed out and their valuables are stolen. He said they are providing extra patrol and he has also developed signage with the help of Kaltsas from Independence which will alert people to be cautious and realize thieves are out there during the day.

Kroells talked about the damage caused by the storms that came through the area on July 17<sup>th</sup>. He commended his staff and Ende from Public Works for coming in after midnight to help re-open roads.

Johnson stated he thought the Emergency Mitigation report needed to include gas lines and transmission lines throughout the City.

Johnson talked about the tragedies that have recently happened on Highway 12 and he felt the most critical area was the space between 92 North and South. He said there needs to be more signage to alert people about turning cars. Kroells stated there has been a recommendation to cut down the berm along the railroad track on Highway 12 between north and south County Road 92. Kroells stated there has to be a plan so we can get the funding we need to improve the road.

8. Elmer Schefers (Applicant/Owner) requests that the City consider the following actions for the property located at 5635 Kochs Crossing, Independence, MN (PID No.s 11-118-24-14-0003):

- a. Final Plat to allow a (14) fourteen lot subdivision.
- b. **RESOLUTION NO. 15-0825-02** – Approving the Final Plat

Kaltsas stated the applicant is seeking Final Plat approval for a fourteen (14) lot subdivision to be known as Serenity Hills Subdivision. The City previously approved the rezoning, preliminary plat and conditional use permit for a cluster development. The final plat is consistent with the preliminary plat and is a formality to ensure that all proper securities and agreements are completed.

Since the approval of the preliminary plat, the following items should be noted as a part of the City's consideration of the application:

1. The applicant revised the preliminary plat based on the Planning Commission's recommendation to remove driveways and reconfigure several lots along independence Road. The City Council provided the applicant with additional direction relating to the Planning Commission's recommendation. The applicant made the recommended changes to the final plat so that there is only one shared driveway along Independence Road.
2. The applicant is asking for permission to connect one (1) of the proposed fourteen (14) lots to City sewer on Independence Road. In order for the City to consider the connection, it was noted that the Comprehensive Plan would need to be amended to include the property in the approved sewer

service area. The City has received approval from the Metropolitan Council to amend the Comprehensive Plan to include Lot 2, Block 3 in the sewer service area

3. The City has completed a full review of the proposed final plat and has been working with the applicant to make all necessary corrections. The plans have been revised in accordance with all applicable comments and requirements.
4. The City has prepared a final development agreement. The document provides for the requisite financial guarantees that all public improvements will be made in accordance with the approved plans.
5. Storm water management has been reviewed by the City and several revisions have been asked of the applicant. Pioneer Sarah Creek Watershed Management Organization has reviewed and approved the Final Plat application with several conditions. The City will incorporate any outstanding issues into the final plat conditions of approval. In addition to requiring the long term maintenance of the storm water conveyance system by the homeowners association (HOA), the City is proposing to establish a storm sewer improvement tax district for this development. The City is permitted to establish a storm sewer improvement tax district to acquire, construct, reconstruct, extend, maintain and otherwise improve storm sewer systems and related facilities within the District and to levy a tax on all taxable property within the District to finance such activities. The district boundary would directly correspond with the extents of this development and would provide the City with the ability to maintain the system in the future if the HOA is no longer solvent. The City can establish this district by ordinance following a public hearing on the matter. A draft of the ordinance is attached to this report for review and will be brought before the City Council for formal adoption following the requisite public hearing notification period.
6. Kochs Crossing will need to be vacated by the applicant. The applicant has submitted the necessary legal descriptions/depictions of the property to be vacated. The City will coordinate the vacation of the right of way with the construction of the development. It is anticipated that the right of way vacation will occur at a future City Council Meeting.

#### Park Dedication

The proposed subdivision is subject to the City's park dedication requirements. The park dedication is broken down as follows:

*Park dedication fee \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5.*

The park dedication fee requirement for this development is anticipated to be \$49,000 (14 lots x \$3,500).

Kaltsas said the City has received a letter in support of the proposed subdivision from the neighboring Village Church.

Kaltsas stated staff is seeking a recommendation from the Planning Commission for the request for Final Plat with the following findings and conditions:

1. The proposed Final Plat meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. City Council approval of the Final Plat is subject to the following:

- a. The Applicant shall address all comments and applicable requirements pertaining to the development, as requested in the City's review letter dated June 26, 2015.
  - b. The Applicant shall make all revisions requested in the staff report, by the Planning Commission and City Council.
  - c. The Applicant shall comply with all applicable regulations and conditions prescribed by Pioneer Sarah Creek Watershed Commission.
  - d. The Applicant shall enter into a development agreement with the City for this development.
  - e. The Applicant shall provide a letter of credit as established by the development agreement for all public improvements associated with this development.
  - f. The Applicant shall consent to the establishment of the storm sewer improvement tax district.
  - g. The Applicant shall obtain all necessary City, County, PCA and other regulatory agency approval and permits prior to construction.
3. The Applicant shall pay the park dedication fees in accordance with the terms defined in the Development Agreement.
  4. Kochs Crossing will need to be vacated by the City. Vacation of the right of way will need to correspond with the establishment and construction of the new right of way and road.
  5. The Applicant shall pay for all costs associated with the City's review of the Final Plat.
  6. The Applicant shall record the Final Plat within ninety (90) days of the City Council approval of the Final Plat.

Kaltsas noted that all permitting has been approved through Pioneer Sarah Creek watershed. Johnson asked who was responsible for the out-lots once all of the development is sold. Kaltsas said the HOA (Homeowners Association) would take over the maintenance of those lots.

Johnson asked how many cars drive on Kochs Crossing on a daily basis. Shefers stated it was about 20-25. Johnson noted that was similar to Lake Sarah and Tamarack.

**Motion by Wenck, second by Fisher to approve Resolution No. 15-0825-02. Ayes: Johnson, Betts, Fisher, Spencer and Wenck. Nays: None. Absent: None. MOTION DECLARED CARRIED**

9. John Bauman (Applicant/Owner) requests that the City consider the following actions for the property located at 5836 County Road 6, Independence, MN (PID No. 26-118-24-43-0005):
  - a. An amendment to the existing conditional use permit to allow a personal accessory structure to be constructed on the subject property.
  - b. **RESOLUTION NO. 15-0825-03** – Approving Amendment to Conditional Use Permit.

Kaltsas stated the City has received an application to amend the existing conditional use permit on the property located at 5836 County Road 6. The applicant would like to construct a new detached accessory structure on the property. The City originally granted a conditional use permit in 1988 to allow a landscape business to operate on the subject property. The conditions approved with the conditional use permit define the business and detail one building to be constructed on the property for the purpose of housing equipment and materials associated with the business. That building was constructed on the property in 1990-1991.

The applicant would now like to construct a new detached accessory storage building to accommodate personal storage not associated with the landscape business located on the property. The City noted that due to the existing conditional use of the property, an additional accessory building would be considered an expansion of the conditional use. Any expansion or change in the conditional use of the property would require an amendment to the conditional use permit. If the property were not being used for the existing business, the applicant could utilize the existing building for personal storage. The City could amend the conditions approved as a part of the conditional use permit to include this building and stipulate that the use of this building by or for the existing landscape business would be prohibited.

The City regulates the total square footage of all accessory buildings on a given property. This property is 4.79 acres in size. The total accessory structure square footage permitted on this property is 4,173. There is an existing detached accessory structure that is 2,400 square feet in size. The applicant is proposing to construct a new 1,440 square foot building. The total square footage of both the existing and proposed accessory structures would equal 3,840. That would leave approximately 333 square feet for any future accessory structures on this property. The applicant does have two temporary greenhouse structures located on the property. The City's ordinance does not specifically address temporary structures.

The conditions placed on the existing conditional use permit are as follows:

EXISTING CUP CONDITIONS

1. No sales of any product whatever shall be permitted on or from the subject property except landscaping products installed by and through the applicants landscaping business;
2. No advertising signs shall be permitted;
3. The hours of operation shall not exceed the period from 7:00 am to 10:00 pm., Monday through Friday of each week;
4. Any lighting installed on the property shall be shielded to avoid light spillage onto adjacent property, and all lighting shall be extinguished no later than 10:00 pm. Daily;
5. No equipment, other than equipment necessary for the applicants landscaping business, shall be stored on the property and such equipment shall be housed in a building which shall be completed on or before January 1, 1991;
6. No more than six employees shall use the site as their principal place of employment

The aforementioned conditions would remain in place with the existing conditional use permit. The following conditions could be considered by the City to specifically address the construction of the additional accessory building:

ADDED/AMENDED CONDITIONS

1. The 1,440 square foot detached accessory structure, constructed in 2015, is for the personal use of the occupant of the principal structure.

2. There shall be no use of the 1,440 square foot detached accessory structure, constructed in 2015, for storage or operation associated with the landscape business.

The criteria for granting a 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 applicant is proposing to construct a detached accessory structure that complies with all applicable setbacks, square footage requirements and other applicable criteria. The existing conditional use complicates that ability of the applicant to construct the personal accessory building. The City wants to ensure that the business use of the property is not expanded and that the intended use of the new structure for personal use only can be successfully administered.

***Neighbor Comments:***

The City has not received any written comments regarding the proposed conditional use permit.

***Planning Commission Discussion:***

Commissioners reviewed the requested amendment to the CUP. Commissioners asked for clarification on the location of the proposed accessory structure and the existing temporary structures. Commissioners noted that the applicant could have constructed an additional accessory structure on the property of there was not a Conditional Use Permit. Planning Commissioners recommended approval of the amendment to the CUP with the conditions and findings stated in the report.

Kaltsas stated 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 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 reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.

3. All conditions approved with the initial conditional use permit shall remain in effect.
4. The 1,440 square foot detached accessory structure, constructed in 2015, is for the personal use of the occupant of the principal structure.
5. There shall be no use of the 1,440 square foot detached accessory structure, constructed in 2015, for storage or operation associated with the landscape business.

**Motion by Betts, second by Wenck to approve Resolution No. 15-0825-03. Ayes: Johnson, Betts, Fisher, Spencer and Wenck. Nays: None. Absent: None. MOTION DECLARED CARRIED**

10. Motion by City Council Thanking City and West Hennepin Public Safety Staff for Maple Plain Days

**Motion by Spencer, second by Wenck to approve motion thanking the City and WHPS for Maple Plain Days. Ayes: Johnson, Betts, Fisher, Spencer and Wenck. Nays: None. Absent: None. MOTION DECLARED CARRIED**

11. Discussion Regarding Upcoming City Council Election to Consider Scheduling a Candidate Meeting Event

Johnson asked if anyone had connections to the League of Women Voters. Spencer agreed that we needed to have an open forum and potentially include the school districts. He said it would need to be publicized in ample time. Johnson thought it could be two stages with meeting the candidates first and then a meeting on the bonds. Spencer suggested the second week of October would be a good time to meet. Wenck stated the LMCC will be taping statements if the candidates want to do that.

12. Discussion on Auditors Contract

Kaltsas stated it has been a full year that we have been without a contract. Johnson stated it is common to change auditors every three years or so. Betts said it is a good common practice.

**Motion by Betts, second by Wenck to get bids for auditor contract. Ayes: Johnson, Betts, Fisher, Spencer and Wenck. Nays: None. Absent: None. MOTION DECLARED CARRIED**

13. Open/ Misc

14. Adjourn

**Motion by Wenck, second by Fisher to adjourn at 8:20 p.m. Ayes: Johnson, Betts, Fisher, Spencer and Wenck. Nays: None. Absent: None. MOTION DECLARED CARRIED.**  
Respectfully Submitted,

---

Trish Bemmels  
Recording Secretary