

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY JANUARY 4, 2022 – 6:30 P.M.
City Hall Chambers

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.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. Swearing in of Newly Elected Council Members

Beth Horner swore in Lynn Betts. Brad Spencer was not present tonight so he will be sworn in next time.

4. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, McCoy and Grotting

ABSENT: Spencer

STAFF: City Administrator Kaltsas, Assistant to Administrator
Horner

VISITORS: Anita Volkenant, Bob Volkenant, Matt and Joe Timm

5. ****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 December 21, 2021, Regular City Council Meeting.
- b. Approval of Accounts Payable; (Checks as listed).
- c. Agriculture Preserve Application -421 Ingerson Road.
- d. Approval of Pay Application Request #13 from Rochon Corporation for work completed on the 2020 City Hall Project.

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

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

7. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Grotting attended the following meetings:

- Planning

McCoy attended the following meetings:

- None

Betts attended the following meetings:

- None

Johnson attended the following meetings:

- Planning
- Breakfast with Representative Phillips

Horner attended the following meetings:

- None

Kaltsas attended the following meetings:

- None

8. Peg Timm - Request to Discuss Property Issues with City Council (7290 County Road 6)

Peg Timm's sons Joe and Matt are here to speak on Peg's behalf. They live on 7290 County Road 6. Joe said in 2014 Keating put a berm on his property. This radically altered their property and use their property the way they would enjoy. There is no ordinance for berms in the ordinance and no height restrictions on berms. The berm has caused issues with how the water moves in the Timm's property until the berm was put in. Joe asked the Council to acknowledge that the berm was not done according to the city's ordinances and not done in a way that was reasonable or neighborly. They asked that the city make an ordinance for size and for appropriate drainage. He asked for changes to be made to the berm, so the use of their property be more enjoyable.

Johnson asked if they received the letter from the Hakanson group. Kaltsas said that the city asked Hakanson and Anderson to go to the property to review this issue. Johnson asked if this is Pioneer Creek or Minnehaha watershed. Kaltsas said PSCW. Johnson said there are some trade-offs with the watersheds. This property is one property to the East of Minnehaha.

Johnson said there are a lot of other issues. Betts said there are two separate issues. McCoy asked what the two colors are on the map of the property provided. Joe said the blue and yellow line is where the berm was supposed to be on the property. The red is where it actually is and it's 35' across. Johnson asked if the addition to the berm was done without a grading permit. Matt Timm said there was a spot that was meant for drainage and since then it was regraded, and the hole was covered. Hakanson Anderson agreed there was an issue. Grotting asked if there was no berm there, would there be standing water. He asked how would taking away the berm get rid of the water. Joe said look at the bobcat. Matt asked if they are going to refute what we say or are

you willing to believe us. The muck is gravel. Johnson said 2018 was the wettest years we had in history. Matt asked if it would be helpful to offer other pictures.

Betts said this whole area changed when the polo area came. The pasture is gone and became a lake. They broke a drain tile when they were digging a basement behind the Timm's property. We can't do anything about that. I think this has exacerbated your problem. The maps to all the drain tile lines are most likely destroyed. Grotting said that the last thing the city council wants to do is take action on something that we don't know enough about. Matt said it's acknowledged by Hakanson there is an issue. Keating's actions were illegal to move dirt the way he did without a permit. Grotting said there is a lot of flat ground with your belongings, and he asked if they have moved that off of his property. Matt said that there is now a fence. Grotting said there was draining to the North and South. Betts asked what the purpose of the berm was and if Keating had a problem on his property that he felt he had to put up a berm. Matt said he drained the water from the wetland to across the street. He asked why this a foot or two from our property. Johnson asked where the water was coming from that was pumping. Timm boys said it was from the wetlands. Grotting said he obviously put the berm there to block his view of Timm's shed.

McCoy asked about the creek that runs East to West behind that flows out to the West. Before the berm was established on the N, it flowed in a NE direction. Grotting said there is no elevation change there. Betts said if it's blocked it has no where to go. Johnson asked how the water is being diverted. Joe said when the water comes down it has to choose which way to go. Johnson said the high point is where the house is. Matt said it's pooling onto our property in the flat part. Johnson asked why they don't build a drainage ditch to flow the water South. Grotting said he is talking about a swale. Johnson said there are some major flaws in the CUP that they are violating. Betts said that the other berm done without a permit did this cut off the drainage. Matt said this blocked it off. Betts asked if Keating had to take out the part of the berm that was done without a permit would that help the situation. Matt said I can't say if that would make a difference. Betts said this was a dry year compared to the previous years. She asked when these pictures were taken. December 2018. Grotting said the last drainage problem, the downstream resident had to do a swale or trench along the property line. Matt said we should be considered the upstream residents since the water used to flow to his property. He said they have tried working with Keating. People shouldn't have to do this with neighbors. There should be an ordinance. Grotting said that Hakanson said that in the corner, if that berm was opened that would solve 70% of the problem and to have it drain to the South it would resolve 30% of the problem. Bob Vose said that the 2019 report from Hakanson, the solutions are good ideas. I don't read the letter as saying the berm has caused the water issue. In fact, one of their solutions is a survey drainage before and after the berm. The gap in the berms that were filled doesn't change anything. He said there are issues with both property owners, and you can't pick and choose to go after one and not the other. This is usually an issue between property owners that is resolved with a lawsuit. The city is taking this seriously even though they don't need to.

Betts asked if there needs to be a maximum height of berms. Kaltsas said we don't have a maximum height for berms. Usually, it is the commercial that we are trying to screen from the residential to block all visual. Betts said we should pursue this a little more. The ground settles under a berm so will there be a berm be in the same condition in 10 years. If it cuts out sunlight and scenery, then we should consider limitations. McCoy said in the December 2018 Hakanson report it says that the water does drain North off the Timm property. They admitted that was wrong when they went out physically. There was a sub watershed that was not identified originally. That sets the tone that the berm is holding up the water. Vose said that the report basically said that they know a little better about how the water works now than in their initial report. They are not rendering an opinion of it but they are saying that they could find out. Matt said that Hakanson admitted that they were incorrect in their initial findings. The location of the berm isn't where it was approved to go. Grotting said don't wait around for Keating to do something to get your life working again. Joe said we can only spend so much money. Matt said all we are asking is for the city to acknowledge Hakanson Anderson would come out and look and see if we are nuts or to see if there is an issue here. Joe said let us know what you need from us. It would be nice to put in a

French drain but that is expensive. Grotting said you want a swale, not a French drain because those don't work in this climate. Johnson said if you can't work with the neighbors, you've got to work with what you've got, but in his opinion, he suggested doing something to fix it and get it behind them. Matt asked Johnson if he doesn't see any issues with what has been done here. Johnson said he's not saying that. There are several issues with the Tim's property that need to be dealt with and the CUP that was issued to them that are in violation. Betts asked about the orange contour line. She asked if there was any way that you could drain the water to the West or is this higher elevation. Johnson said we see an elevation of 1,012 and it is flat so it's not draining anywhere. McCoy said if you drain it to the West then you're draining it to into someone else's property. Betts asked if a culvert would work. Johnson suggested that the person who wrote the letter from Hakanson come to talk about the report. Kaltsas said that person is no longer with Hakanson, but we should take the letter from Hakanson and have another discussion about this. There are financial implications to the city. There was a civil dispute between the neighbors.

Johnson said lets lay this on the table and try to get further information from Hakanson. Timm's said thank you.

9. Annual City Council Appointments.

e. **RESOLUTION 22-0104-01** - Annual Organizational Appointments.

f. **RESOLUTION 22-0104-02** - Approval of Planning Commission Appointments.

No changes from anyone. Betts said that Steve has done a lot for the City with LMCC. Grotting said this is more independent from LMCC. Johnson said he appreciates all the work Grotting has been doing. Johnson acknowledged Joe Baker's work on PSCWMC.

Motion by Johnson, second by McCoy to approve Resolution 22-0104-01. Ayes: Johnson, Grotting, McCoy and Betts. Nays: None. Absent: Spencer. Abstain. None. MOTION DECLARED CARRIED.

Motion by Grotting, second by Betts to reappoint Robert Gardner to the Planning Commission, Resolution 22-0104-02. Ayes: Johnson, Grotting, McCoy and Betts. Nays: None. Absent: Spencer. Abstain. None. MOTION DECLARED CARRIED.

10. Annual Fee Schedule Adoption.

a. **RESOLUTION 22-0104-03** - Considering the Annual Update to the City's Fee Schedule.

Johnson confirmed with Kaltsas that the only change is the sewer fee. Kaltsas said MetCouncil fee is flat so no increase for the 8th year in a row.

Motion by McCoy, second by Grotting to approve Resolution 22-0104-03. Ayes: Johnson, Grotting, McCoy and Betts. Nays: None. Absent: Spencer. Abstain. None. MOTION DECLARED CARRIED.

11. Zoning Ordinance Amendment Consideration.

- a. **ORDINANCE 2022-01:** Considering an amendment to the City's Subdivision Standards and Rural Residential Cluster Development Standards as follows:

Considering amendments to Section 530.05 Rural Residential District established., Subd. 3. *Density* and Section 530.05 Rural Residential District established., Subd. 4. *Cluster development conditional use permit*.

The amendment will consider clarifying the table for determining density calculations as well as the way that open space is calculated for cluster developments. In addition, the City is considering establishing a minimum lot width for Cluster developments as well as modifying slope steepness to be consistent with other areas of the zoning and subdivision ordinances.

Kaltsas said this is between cluster and RR. The city has two districts, AG and RR. In RR the city allows a 1:5 zoning in how we determine density. The density table doesn't equate to 1:5. One lot for the first 7.599 acres that you own and at 7.6 we allow an additional lot. At 47.5 the table stopped, and the language stated that you get one additional lot for every 5 acres after that. Between 42.5 and 47.5 there was a penalty if you owned greater than 47.5 acres. It was recommended that the penalty be eliminated by allowing 1:5 to begin after 7.6 acres. The bonus would remain in place and won't penalized a landowner that owns over 47.5 acres.

Within the RR we allow a cluster development as a CU. A cluster development was a way the city looked at preserving a larger amount of space within the public open space. It is not unique to Independence. The cluster development standards are that if you can preserve 50% of the property as open space and 50% of that 50% as usable space, you could receive a density bonus. A resident asked the city how 50% calculation is made regarding gross acres. The question was if the calculation will include or exclude new roads. Planning discussed it and it was recommended that we should amend the 50% should exclude ROW, existing roads, and county roads. Any new roads would be included.

The last piece was lot frontage for cluster development. The standard frontage is 200 lineal feet for RR lots. We allow 50' frontage on a cul-de-sac. The question was if we would allow a lesser number. This came up on the Scheffers development and some relief was offered for them. Planning said that 150' frontage was reasonable reduction but still was a reasonable size lot. There was also a question about slope and if a 10% slope needs to be maintained. Shoreline is 12%. Planning asked that we eliminate slope altogether. This is just in RR.

Johnson asked what the wording "or other physical impediments" means in the ordinances. Kaltsas said it could be rock formation or something else you would want to preserve. Or a substation and public utility easement. He said elimination of the 10% slope would take that out.

McCoy asked about the dedication of gross acreage. He asked what if they put a trail on the public ROW like Providence. If that would that be eligible for reduction of gross acreage because its public use. Kaltsas said it would be ore of a park dedication. Betts asked wasn't that unique because it was a

narrower road. Kaltsas said it's a wider road. McCoy said it is common to put bike paths along the city ROW. It would be separate from park dedication. That portion should count towards gross acreage. Johnson said what if Koch's want a sidewalk on each road. That's public use. As the city develops, we may need to consider this. On Budd St, where there is higher density, you would want to put sidewalks in. Kaltsas said it has to be public, beyond just the subdivision, and an easement dedication to the public. This was a unanimous vote by the planning commission.

Motion by Betts, second by McCoy to approve New ORDINANCE 2022-01. Ayes: Johnson, Grotting, McCoy and Betts. Nays: None. Absent: Spencer. Abstain. None. MOTION DECLARED CARRIED.

McCoy said he appreciates the Planning Commission's work on this and others.

12. Meeting Date/Time Change for the February 1, 2022, Regular City Council Meeting resulting from of the 2022 Precinct Caucus.

Kaltsas said that they could meet earlier on February 1 to keep the date the same.

Motion by Johnson, second by Grotting to meet at 5:00pm on February 1, 2022. Ayes: Johnson, Grotting, McCoy and Betts. Nays: None. Absent: Spencer. Abstain. None. MOTION DECLARED CARRIED.

13. Open/Misc.

14. Adjourn.

Motion by McCoy, second by Grotting to adjourn at 8:08 p.m. Ayes: Johnson, McCoy, Grotting, Betts, and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Amber Simon / Recording Secretary