

MINUTES OF A REGULAR MEETING OF  
THE INDEPENDENCE CITY COUNCIL  
TUESDAY, OCTOBER 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. ROLL CALL

PRESENT: Mayor Johnson and Councilors McCoy, Betts, Grotting, and Spencer.

ABSENT: None.

STAFF: City Administrator Kaltsas. City Admin Asst Simon, and  
Bob Vose (City Attorney).

VISITORS: (See Sign-In Sheet.)

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 September 20, 2022, Regular City Council Meeting.
- b. Approval of Accounts Payable (Batch # 1; Checks Numbered 21508-21514, Batch # 2; Checks Numbered 21515-21535).
- c. Approval of Additional Election Judges for 2022 General Election.

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

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

**Grotting attended the following meetings:**

- Workshop
- Visiting properties on agenda

**Spencer attended the following meetings:**

- Visiting properties on agenda
- HC Sheriff's Dept

**McCoy attended the following meetings:**

- Planning Commission Mtg

**Betts attended the following meetings:**

- None

**Johnson attended the following meetings:**

- Planning Commission Mtg
- Senior Community Services Board Mtg – Zoom – ½ are new board members now
- Police Candidate Interview
- 4 Community Theatre at Rockford High School
- Orono School Board Mtg and Workshop
- NLC Small Cities Council – Zoom
- Orono Healthy Youth Mtg
- Senior Community Services Fall Reimagining Age Conference – highlighted several fraud cases
- Sharon Cook passed away and had run elections for years.
- Wayne Hillstrom's funeral – Saturday
- Carol Strassburg's funeral – Friday - She had helped with elections for years.

**Simon attended the following meetings:**

- Benefits Coordinator Mtg

**Kaltsas attended the following meetings:**

- Benefits Coordinator Mtg
- HN Cty - Co Rd 19 & Perkinsville and trail options

October is National Domestic Abuse Awareness Month. Orono Healthy Communities and Hennepin County Commissioner Kevin Anderson's newsletters have mentioned this.

Maple Plain Fire Dept's Open House Saturday, 11-4pm – all are invited.

Jeff Leuer of Loretto Fire Dept. was chosen as the Minnesota Fire Chief of the Year and will be honored in Duluth on Oct. 21, 2022. Jeff plans on ordering tickets for anyone wanting to attend.

Lewis Cemetery off Cty Rd 90 updated their entrance signs, and they plan on holding a dedication on Memorial Day 2023.

7. Don Hamilton (Owner/Applicant) requests that the City consider the following actions for the property located at 5687 County Road 6, Independence, MN (PID No. 35-118-24-11-0003):

- a. **ORDINANCE NO. 2022-06** – Considering rezoning of the property from AG-Agriculture to RR-Rural Residential consistent with the Comprehensive Plan; and
- b. **RESOLUTION NO. 22-1004-01** – Considering approval of a minor subdivision to allow a rural view lot subdivision.

Kaltsas recapped the Property/Site Information, Discussion, and Recommendations of packet pages 10-19 regarding a minor subdivision and rezoning application for the property location at 5687 County Road 6 (PID: 35-118-24-11-0003). Don Hamilton wants to subdivide his property to allow a second home on the property. The City did a review and various aspects of the project. To consider it, it must be rezoned. It's currently zoned AG, guided RR, and is 11.54 acres. The City allows RR property to be rezoned if it's a minimum of 7.6 acres. We give one additional unit per every 5 acres over that. So since this property is 11.54 acres, 2 lots are allowed. The west lot is 5.52 acres, and the east is 6.05 acres. Detached accessory buildings exist on the property. In the before condition because there are 10+ acres and there is no detached accessory building limitations; in the after condition as proposed, there will be limitations on the 5.52 acre lot. It allows a maximum of 2% of the buildable upland area to be covered with detached accessory structures- which is approx. 4,500 sq ft of allowable detached accessory structures. You need to take into account wetlands. The 5.52-acre lot would be ok. For access, the western parcel would have 662 of lineal ft frontage on Cty Rd 6 which is more than enough (300 lineal ft minimum). The East parcel has 922 lineal ft. on Co Rd 110 and 191 lineal ft on Co Rd 6, thus these are in compliance. The East parcel has driveway access on 110 near Luce Line Trail, south of the property. The City would require Park Dedication Fee for the new lot being created. PC made recommendation to approve rezoning and subdivision with considerations. See the Rezoning Ordinance and the Minor Subdivision Resolution if it is approved.

Don asked if the lean-to shed would be allowed on NW corner.

Kaltsas said it would be proposed to be taken down in this minor subdivision proposal tonight. You would need to apply for a Variance asking to allow it to stay because it is beyond the 2% allowable sq footage. Ordinances do not differentiate between the 2-side, 3-sided for permanent structures. There is no exception to structure besides a horse feed area.

Johnson – Did you take into consideration the old milk house that were to be torn down?

Kaltsas – That is 390 sq ft. and is included to stay. I did not take into account the silo, it was excluded.

Johnson – What would be the difference between the milk house and lean-to?

Don – 28x45 possibly. He was not aware of non-conforming buildings until after the planning meeting.

Spencer – You could file for a variance but there is no hardship, so the variance would probably not be possible to save the lean-to. There is some historical preservation of old buildings, but there's nothing in the ordinance to provide for that.

Don – I have had 4 offers for the place already, and 2 of them have been just because of the buildings.

Johnson – You don't have a hardship because you can move the lot line.

Don- There is interest in the property with buildings. I'd rather keep the lot size.

Kaltsas – 950 sq ft is the difference between lean-to and milk house which is right at the threshold.

Johnson – Everything could be approved but you'd have to take down the one building.

McCoy recused himself from the voting.

**Motion by Spencer, second by Grotting to approve RESOLUTION NO. 22-1004-01 – approving the minor subdivision to allow a rural view lot subdivision.**

**Ayes: Johnson, Betts, Grotting, and Spencer. Nays: None. Absent: None. Abstain. McCoy. MOTION DECLARED CARRIED. 4:0**

**Motion by Grotting, second by Betts to approve Ordinance No. 2022-06 – approving the rezoning of the property from AG-Agriculture to RR-Rural Residential consistent with the Comprehensive Plan. Ayes: Johnson, McCoy, Betts, Grotting, and Spencer. Nays: None. Absent: None. Abstain. McCoy. MOTION DECLARED CARRIED. 4:0**

8. Nicholas Mozena (Applicant/Owner) requests that the City consider the following action for the property located at 1187 County Road 92 N., Independence, MN (PID No. 29-118-24-14-0003):
- a. **RESOLUTION NO. 22-1004-02** – Considering approval of a variance to permit a reduction to the rear yard setback allowing an existing detached accessory structure to remain in its current location.

Kaltsas recapped the Property/Site Information, Discussion, and Recommendations of packet pages 20-35 regarding a variance to permit a reduction to the rear yard setback allowing an existing detached accessory structure to remain in its current location for the property at 1187 County Road 92 N (PID: 29-118-24-14-0003). During review of pole barn reconstruction, there was a shed that did not comply with applicable setbacks. It is zoned AG and about 4.5 acres. The shed was not recorded or permitted for and is placed too close to property line. Applicants had recently purchased this property and were unaware that the 9’x16’ shed was not legal as it sits 3 ft off the rear/western property line. The City recently updated the ABRC/ Accessory Building Review Committee for reduced setbacks. The required Rear Setback is 40-yards, and the Side Setback is 15-yards. They installed a new fence, existing trees, and septic field. There are limitations on where to move or put the shed. They chose to ask for a variance to allow the shed to remain in the current location. They wrote a letter showing the hardship. It relates to the character of the property and doesn’t take away or cause impact to surrounding properties as the Western property is a commercial riding property. The PC had a lot of discussion and determined the applicant didn’t create the issue. There are unique characteristics on this property and recommended approval to allow it to remain.

Johnson – Do we require anything in writing from neighboring property that they don’t object or for sake of paper trail?

Kaltsas – The PC brought this up and neighbors were noticed, so that they felt it was satisfied since no one came forward. The western property is owned by an entity and not a sole person.

Johnson – We should make note here that they were noticed, and they chose not to come.

Vose- When a landowner comes in and wants a variance, it is persuasive but not required to have neighbors’ written statements. It’s recommended to put into the minutes for recording purposes.

**Motion by McCoy, second by Spencer to approve RESOLUTION NO. 22-1004-02 – approving the variance to permit a reduction to the rear yard setback allowing an existing detached accessory structure to remain in its current location. Ayes: Johnson, McCoy, Betts, Grotting, and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 5:0**

9. Review Concept Plan Submittal for the property located at 9285 Highway 12 (PID No. 18-118-24-21-0001). William Stoddard (Applicant) and John Zeglin (Owner) are asking the City to provide feedback relating to the proposed concept development of the subject property. The Applicant is proposing to develop the property into office warehouse, garage condominiums, and rural residential lots on the subject property.

Kaltsas recapped the Property/Site Information, Discussion, and Recommendations of packet pages 36-69. The proposed Business Park is an office warehouse and garage condominium project. The Concept Plan is an optional process where the applicant can approach the City and present a proposal of a particular property so that the Planning and Council can ask questions and provide feedback. There is no formal review or decisions made. It is high level feedback to see a project before it is developed.

This property is West of Nelson and South of Hwy 12, zoned AG, but guided as AG and Urban Commercial. It is 58 acres in overall size. It has been on the market for close to 15 years. The City has received, asked questions from high density residential, churches, any other type of land use in between. We have never had a formal application or concept plan submitted before. The City has considered a portion of this as Commercial and some to remain AG. In its current condition, it's bordered on the East by Nelson Rd and on the North by Hwy 12 Co Rd. There is an existing farmhouse and detached accessory structures with several wetlands, wooded areas in the middle, and pastureland on the NW. The Comp Plan shows it with blue dashed lines. The furthest west 12 acres is guided as Urban Commercial, which is a placeholder in the 2030 Comp Plan that identified some potential commercial development. This Concept Plan would have 3 different land uses: asking the City to reguide a larger portion from AG to Urban Commercial (the darker red area on the western side), an additional 16 acres along Hwy 12 to Nelson (the lighter pink area on the south side) proposed to be reguided as Urban Commercial, and 28 acres (the green area) would remain AG. A stormwater pond would be in the AG. Three (4.5 acre lots) residential properties would mirror properties across the street and can remain AG. 2 – 100,000 sq ft office warehouse buildings. Office in the front along the Hwy 12 and warehouse in the back with parking and loading dock. The Western edge of property would be 100 units of garage condos and private garage space showcases.

This initial application showed access onto Nelson Rd. The City said that access to Nelson Rd would be a nonstarter and is not a safe access point for residential and adding commercial would not be supported. Two ways they proposed would be acquisition on the property to the West with an easement for a frontage road or Hwy 12 access with a right in right out, but they would have to discuss this with MNDot. It would limit the types of uses you could get with that access. There could be a roundabout at County Line but until then it would be hard. Applicant did complete a wetland delineation. There are a couple in the NE corner that would stay, underneath a building, and some in the trees. They would mitigate the wetlands where the buildings are but maintain the other 2 wetlands. They are proposing to leave the trees and preserve the woodland area. They would utilize on-site septic and well for water. There is a possibility for the City to possibly serve these areas with water at some point consolidating water system to serve the commercial area only. Delano offered the City to annex the property then they will serve that property. It shows a flex space where the possibility is to divide the space up depending on what people are asking for. Medina has the auto plex like the garage spaces proposed. We have had a lot of interest in the surrounding cities for these garage condos. The Planning Commission felt there was likely an opportunity to expand the commercial area but was concerned about the proximity to Nelson Rd residents. They discussed options of mirroring residential properties on the east with more on the west side that would buffer and back up to the commercial area essentially allowing a mirror residential development while maintaining some commercial a little west than proposed, but having additional separation of green space, berming, etc.

Johnson – The road study we just had; our preferred alternative was double lane through town. What does that say from County Line back to 92?

Kaltsas- Essentially echoes what we're showing. A frontage road would be preferred. We're talking about Nelson Rd having limited access there in that study, but also roundabouts on both ends. We didn't look at right in right out and would not be preferred, but it is a half section from Nelson to County Line Rd. There is a wider section of Hwy 12 that you can slide the right in right out a little N-S if needing to accommodate.

Betts – What is the size of those 3 lots?

Kaltsas – About 4.35 acres each. They mirror lots across the street in width but are less in depth more similar to the lots south on Nelson on the west.

Betts – What is the land being used for right now?

Kaltsas – There is active farming on there now. The original home site with detached buildings, wetlands, trees, tillable land.

Grotting – If they were to utilize this design out to County Line to avoid direct access on Hwy 12, they would need permission from that landowner?

Kaltsas – They would need to acquire an easement and or property to go across. Either way they'd need cooperation of that property owner.

Grotting – If someone came in and wanted all of these, you would have to gauge what type of retail would go on there. It's a different type of retail, right?

Kaltsas – Carpet, widgets, granite, pool and spa, or maybe some manufacturing inside with an office up front. There's nothing like right in this area, but Delano has some similar buildings in their area like Landscape Structures.

Grotting – There would be a fine line between selling carpet or selling groceries.

Kaltsas – These are not set up for retail sales. We would have ordinance that describes usage types.

Johnson – Not sure about conversation with the property owner to the west, there is a lot of space needed off of County Line Road and that seems like the only way to get in there. If the neighbor isn't interested in selling it, I'm not sure how that would work.

Grotting – Would the state turn around and say that we need to take right of way because we don't want this dangerous access?

Kaltsas – Access management for the City is important also. The City has not been in the position to take right of way. We would be interested in resolving the access issue since some of it is commercially guided and it needs to get to a place of safe access. 10-12 acres is guided for commercial, and we need to master plan access for that property somehow. But this is the first one in and they need to go across the other property. If the opposite were happening and that property to the west came forward, we would require a road access to serve this property. We could have an interim solution that fits today and a future solution.

Johnson – Turn lanes on County Line Road.

Kaltsas - Delano is a heavy user and Independence is a light user. It would change a portion of County Line Rd and we would have to have a conversation about what to do.

Grotting – Could the western property hang this area up forever?

Kaltsas – Yes, if the City or state doesn't take it. The developer has access rights off Hwy 12 so there's something that we and MNDot would need to permit in some manner. We couldn't land lock that property. We do have rights over the types of land uses.

Johnson – What is the history that dark bold line on Hwy 12 have looks like an easement and what about the other half?

Kaltsas – They just take- get different pieces of property over time. A section there has not been acquired to the full width they likely want. They won't take it if they don't need it. County roads do the same jog in and out, and the RR does this too although they take more readily. We treat this the same and looking at the ultimate use of Hwy 12 and does this property support that. During any application

for land use consideration, is there an opportunity for the City to help assist getting the right of way that we would need.

Johnson – Is all of this area between the condos hard surface?

Kaltsas – Yes, that is typical with lots of doors between back-to-back units which empty into an inner courtyard.

Vose – Regarding a Business Park plan on the north side, it looks like it might require Comp Plan amendment and not a minor amendment, right?

Kaltsas – Minor amendment likely. They look at impact to systems, so I don't know how they'd deem this. Their biggest issue is development without sewer and water. We did show them how we can serve this property of 60 (not necessarily with the 16 additional) with onsite utilities which is in line with what we are talking about. We would require an amendment to the current Comp Plan if extending Urban Commercial to anywhere outside of that existing 12. We'd need to rezone property, consider site plan review, consider CUP to allow PUD/plan use development. We did write a blanket ordinance for Urban Commercial that requires all development to come in under CUP and PUD. That's because we don't know what things will come in. We would require having preliminary plat and final plat steps if anything were to come forward for a formal application.

Spencer – So until access to this property can be resolved, we can't do much with this option. Without a roundabout or access point on County Line Rd to serve this business park, that is all a lot of IFs.

Kaltsas – The applicant is here tonight and would like to know if the City would be interested in this, then they would try to solve the access issues. Not having access on Nelson is a non-starter to Council. Serving this property from Hwy 12 is a viable option but to what level – right in right out only or an interim access? There is a substantial gas pipeline easement on the North side of this property on Hwy 12 and if that west property would ever develop, it would require an access on County Line Rd likely where we're showing it. That's the property owner's decision what they want to do with it.

Johnson – Every time we have done a Comp Plan amendment, we have said no to allow further business development along Hwy 12 in order to preserve the corridor for a decent road. It doesn't make sense for a right in right out off this property when we're as close to County Line Rd. Until we know we have better access there from the west, I'm not willing to discuss the rest of it.

Betts – I would agree. If we can have it on County Line Road then yes, but anything coming on to Hwy 12 would defeat all the safety of that road that we have been working so hard on to get a better highway.

Grotting – If we could slide it to the south and have some frontage- that would still be right in right out.

Spencer – Coming from the E towards Delano where is that U turn point to get into a right in right out? That is the challenge. Like Mark said if a roundabout is installed at County Line Rd and then roundabout to 92 to a right in right out, but without that with that much traffic trying to turn left from the westbound lane is impractical.

Grotting – If we own half of County Line Rd then maybe we should encourage the state to do a roundabout. That's the only way to get to this.

Spencer - But that is beyond our control.

Grotting – The state has no motivation to develop the area.

Spencer - The developer is the only thing within their control to establish access to the west, and until that's a possibility, this is hypothetical.

Applicant Bill Stoddard, from Excelsior, MN – I've developed some big and little things- 10 brick rowhouses across from the Excelsior brewery and 18 twin villas on the bike trail a block off. I started a 233 unit in St. Louis Park and did a 172 unit in Golden Valley. We want a safe good access also, and on our initial concept using MNDot map, we have a 60ft wide access point. We would not be proposing the current plan if we don't get the County Line Rd access point. Instead we would be proposing more residential lots. We have a couple meetings and discussions with MNDot, and they would like a roundabout at County Line Rd in their 10-year plan. If we don't get anything worked out with the neighbor and there is a wide gas easement there already, we would expand on condos instead of commercial use. Like the golf course presenter shared, covid changed a lot of what people need these

days. We could have a \$40 million project of just condos and residential. A city water source and sewer would be great instead of the 12" fire suppression wells. There would be an association to control hour usage, no overnight stays, etc. While we know that the access point is a deal for the City, receiving our max field research report will help to address our potential uses. Without proper access, we know that large trucks can't access this site. ESG Architects designed this project and is an award-winning architect. The City has been great to work with and Mark continues to give me more homework. We agree with the overall site access and will continue meeting with MNDot.

Vose – If the access worked out with the frontage road as depicted, that would accommodate large trucks for light industrial park?

Bill – Yes, and a straight in would be better but only if the neighbor would allow it. We are trying not to impact any tress for Nelson Road residents or taking farmlands.

Johnson – Would one well be sufficient for fire suppression?

Kaltsas – They would have to meet the fire suppression code. If they are doing that onsite there are different requirements. If we are going to develop that area, it makes sense to provide water instead of lots of small wells.

Bill- Summit Fire is helping design and engineer a plan. If we served it by well, it would be reviewed from city staff and engineer.

Johnson – Once we find out if there is a cooperative landowner to the West, it would make a lot of difference. I can see major discussion for the comp plan building discussion.

Kaltsas – PC was very thoughtful of the neighbors to buffer the commercial from existing residential. Allow additional residential to buffer commercial and longer-term assurance of what is across the street.

Betts- With so much impervious surface, how is that going to affect the water? There's a percentage needed.

Kaltsas – This would have to meet all applicable stormwater requirements. They'd only be developing 20 some acres of the 58 acres. Wetlands are in the broader report. Some would be mitigated.

Grotting – It sounds like the applicant is willing to come up with a good balance depending on what we can come up with if he can figure out the access.

10. Consider approval of an ***Early Development Grading Agreement*** as requested by BohLand BridgeVine, LLC in association with the proposed 28 single family lot BridgeVine Subdivision.

Kaltsas introduced the early development grading request of the preliminary plat which was subject to a few things. By allowing the early grading, it does not pre-approve any further action. This is not uncommon due to seasons and weather matters, and we don't see it much here since we don't have a lot of development. This is at the risk of the developer. We would be protecting the tree area down by the lakeshore, adding silt and erosion control, etc. They have transplanted a lot of the trees. People made a lot of comments about the trees coming down. This agreement was drafted by Vose, Pioneer Sarah Creek Watershed would have to approve their preliminary grading permit prior and they're meeting on the 21<sup>st</sup>. We could not trump or override it. Ours would be subject to them granting approval and security in place so the city could restore the site to an acceptable standard if the developer failed to make the improvements.

Johnson – We don't have anything in place about hours of operation of when they can do work. Should we look at that?

Kaltsas – In ordinances, we state no construction noise between 7am-10pm. We could put in a limitation although it is dark now.

Betts- I don't recall lots of noise when Fieldstone and Providence were being done. They seemed to work during daylight hours.



Bohl- We will absolutely be working just during daylight hours.

Grotting – What is your confidence level on MetCouncil approval?

Kaltsas - It's not my decision. We are working to get the ability to connect the lots.

Johnson – 150% of costs is bonded here. We should also change date on the grading agreement date.

**Motioned by Grotting, second by McCoy to approve the early development grading agreement as written as presented. Ayes: Johnson, McCoy, Betts, Grotting, and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 5:0**

11. Open/Misc. -

State Senator Osmek was present and stopped to say hi and goodbye. Redistricting wasn't kind to me. He wasn't going to get Independence anyway. He's moving to his parents' farm by Biscay, MN. He'd been elected 14<sup>th</sup> president of the MN Senate serving both democrats and republicans many who had shared how they'd appreciated how he'd protected their voice. Senator Warren Limmer will be our district's Senator as well as the Judiciary Chair. The then thanked everyone for the support. I'd love to be present for your Hwy corridor ribbon cutting. Your remodeled city hall is beautiful, and I love that the community room is named in honor of you, Mayor Johnson.

Johnson – You have represented us well and we appreciated your support on the Hwy 12 corridor as well as serving during Covid issues. We will miss you.

12. Adjourn.

**Motion by Betts, second by McCoy to adjourn the meeting at 8:12pm.**

---

Respectfully Submitted,  
Linda Johnson / Recording Secretary