

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, OCTOBER 28, 2014 – 7:30PM

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, and Councilors Betts, Fisher, Wenck, and Spencer

ABSENT: None

STAFF: City Administrator Hirsch, City Planner Kaltsas, and City Attorney Vose

VISITORS: Bryan & Elaine Johnson, Mary Printy, Cathy Mueller, Evon Johnson, Lance Gyllenblad, Jim Coleman, Michael Bushilla, Boni Fadden, Lynda Franklin, Dean & Dawn Mooney, Gary Schroeder, Leslie Nordgren, Kathy & Ed Pluth, Clint & Juanita Bergman, Julie Rocheleau, Kent Lee, LuAnn Brenno, Ben & Tara Carlson, Karen & Steve Grotting, Dean & Laura Sorenson, Brian Schroeder, Kyle Johnson, Becky & Matt Bunker, and Brenda & Denny & Nick Geffre

4. CONSENT AGENDA

a. 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.

- Approval of the City Council minutes of September 23, 2014.
- Approval of Minutes of the Accounts Payable Special meeting of October 15, 2014.
- Approval of the Accounts Payable/Receivables ending October 28, 2014.
- Approval of Resolution No. 14-1028-01 Establishing Procedures Relating to Compliance with Reimbursement Bond Regulations under the Internal Revenue Code.
- Approval of the Certification of Delinquent Utilizes for the year 2014, Resolution No. 14-1028-02.
- Approval of Resolution No. 10-1028-03 Supporting the Creation of the Highway 12 Safety Coalition.
- Approval of the request to re-enter the Agricultural Preserves Restrictive Covenant, for John and Marie Mark, 102 Kuntz Drive (PID# 33-118-24 34-0001).

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

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

Councilmember Betts requested discussed creating a Parks Commission again.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF.

**Spencer attended the following meetings:**

- Ravine inspections that feed into Lake Independence as cited in the city's water report.
- Attended the 911 Call Center Ribbon Cutting.
- Pioneer Sarah Creek Watershed Commission Meeting.
- Maple Plain Fire Department Steak Fry and Open House
- City Council Workshop

**Wenck attended the following meetings:**

- Special City Council Meeting
- Attended the 911 Call Center Ribbon Cutting.
- LMCC Meeting
- Minnehaha Creek Watershed Heroes Award Ceremony

**Fisher attended the following meetings:**

- City Council Workshop

**Betts attended the following meetings:**

- Two Police Commission Meetings
- Attended the 911 Call Center Ribbon Cutting.
- City Council Workshop
- Special Senior Community Services Recognition Dinner

**Johnson attended the following meetings:**

- Sensible Land Use Coalition Dinner
- Senior Community Services Board Meeting
- Special Senior Community Services Recognition Dinner
- Community Action Partnership for Suburban Hennepin County Board Meeting
- Two Police Commission Meeting
- Orono Youth Committee Meeting in Maple Plain
- Senior Community Services Finance Committee Meeting
- NW League of Minnesota Cities meeting
- Loretto Fire Department Open House
- Community Action Partnership for Suburban Hennepin County Finance Committee Meeting
- Metropolitan Council of Mayors Meeting
- Maple Plain City Council Meeting
- Shared Services Meeting
- SHIP Meeting in St. Louis Park
- Two City Council Workshop
- Minnehaha Creek Watershed Heroes Award Ceremony

- Water Resources Meeting in Golden Valley
- Community Action Partnership for Suburban Hennepin County Board and Training Meeting
- Delano School Board Workshop
- Orono School Board Workshop
- Meeting with a resident

**Hirsch attended the following meetings:**

- Meeting with City Engineer, Miller, and Public Works Director, Ende, regarding Vinland Center lift station
- Two Chamber Board Meetings
- FEMA meeting with, Public Safety Direct, Kroells
- Berkley Risk Insurance Meeting
- Meeting with the city administration from Greenfield regarding No Wake Issue on Lake Sarah
- Police Commission Meeting
- Meeting with our Public Works, City Engineer, City Planner, at the Vinland Center regarding final financial figures.
- Met with AT Group rep regarding benefits

7. DIRECTOR OF PUBLIC SAFETY, GARY KROELLS – ACTIVITY REPORT FOR THE MONTHS OF SEPTEMBER 2014

Director Kroells gave a recap of September’s activity. He stated in 2014 through the end of September, the Department has responded to a total of 5,500 incidents, of that 3,260 were in the City of Independence. In the month of September Independence had 445 incidents.

Kroells described some of the incidents in detail including: speeding on a gravel road marked for 35 MPH and traveling 65 MPH, a three vehicle crash due to running a red light, a body discovered in Lake Independence, DWI arrests, a fatal motorcycle accident, disorderly conduct requiring a taser to be used, vehicle crash on Hwy 12 and County Rd 92 that required hospital transportation, mental health issue incident, suicide attempt requiring a search party, and a recovered stolen guns with the help of Wright County Sheriff’s department.

8. REQUEST FOR A TEXT AMENDMENT TO THE ZONING ORDINANCE AND A CONDITIONAL USE PERMIT FOR THE PROPERTY LOCATED AT 6325 COUNTY ROAD 6. AND, APPROVING RESOLUTION NO. 14-1028-04 DENYING APPROVAL OF A TEXT AMENDMENT TO THE ZONING ORDINANCE AND A CONDITIONAL USE PERMIT FOR THE PROPERTY LOCATED AT 6325 COUNTY ROAD 6

Johnson stepped down and let Councilmember Betts conduct this agenda item, due to a conflict of interest.

Betts described the request including the resolution. She stated the Planning Commission already had a Public Hearing on this request and asked if there was any new input about this item. Vose stated another Public Hearing is not required, but input could be shared.

Kaltsas explained the request for a text amendment and Conditional Use Permit allowing an agriculture event center. He recapped the location and his report, which discusses the use and zoning. This 56 acre property zoning is long term guided agriculture preserve, but could be changed to rural residential. Kaltsas described the existing structures that would be used, approximately 9,000 square feet. He stated currently the City does not allow this event center use on the property. The plans are for events, primarily weddings, to take place on the second floor of the barn; which is approximately 3,000 square feet. Events would be held on the weekends May through October. The other parts of the building would be prep areas, meeting rooms, utility rooms, and storage.

Kaltsas explained the buildings would all need to be brought up to current building code requirements. The septic system would also need to be reviewed and possibly replaced. Kaltsas discussed the site plan, layout, and parking. The applicant is proposing to have up to 200 guests for events, so they have adequate parking.

Kaltsas explained the City would first need a text amendment to allow the use, and then the City could grant the Conditional Use Permit. Due to the complexity of this application, the City asked for greater details from the applicant, as to exactly what this would entail.

Kaltsas stated the County reviewed the request and stated the road can accommodate the traffic but sight line improvements would be needed. Kaltsas described the noise tests, mitigation efforts, and concerns. In the testing, he discussed how in some areas and at times the road noise was the same volume of the test music. Kaltsas stated he and staff have researched into what other cities have done with items like this. They also reviewed other similar event centers and venues. These examples were listed in his report.

Kaltsas explained the Planning Commission held a Public Hearing and the Planning Commissioners discussed this in great depth. For this property, the Commission decided it was not the right type of use for the area. Their main concern impacts were noise and traffic to the surrounding properties. They couldn't support the change in the ordinance to permit this. They recommended denial of the text amendment change and conditional use permit.

Spencer inquired about any changes from the original application. Kaltsas stated there were no material changes, but the applicant is willing to work with City and neighboring residents. Wenck questioned about the letters of support; which were new and not present at the Planning Commission. At the Planning Commission, only one of the attending audience members was in support of this. All the others who spoke there were opposed to it.

Wenck stated he felt this was the right property for this type of use. If this is not approved the other option would be to build homes on this property; which could be worse noise and traffic. Betts felt the Planning Commission did a very good job listening to the public and their recommendation is for denial. Wenck stated he feels this should be tabled until we can get a text amendment that would meet the needs of the land owner and Planning Commission. Fisher stated what the Council first needs to review is a text amendment. Wenck stated we only have examples of a text amendment. Betts stated if denied the applicant could resubmitted an application if the situations were different.

Vose simplified the application request. He stated there is not a particular text amendment to review, but this would be an amendment to allow a conditional use permit for this type of use. Betts concern was that if approved, it would allow many other applicants similar uses. Vose stated the conditional use permit is site specific. A text amendment would change all agriculture zoned land and how it can be used. Text

amendments are not site specific. Spencer questioned if this text amendment is needed in the entire ag zoned areas. He felt this does not benefit the community at large, at this time.

**Motion by Spencer second by Fisher to approve Resolution 14-1028-04, denying the approval of a text amendment for the zoning ordinance and a conditional use permit for the property located at 625 County Road 6.**

Vose discussed the specifics of the text amendment and conditional use permit listed in the resolution. Wenck and the Council discussed if the Planning Commission should just review a text amendment rather than a conditional use permit for this property. Vose stated if reviewing only a text amendment, focus would be on a broad citywide use in the zoning district.

**Ayes: Betts, Fisher, and Spencer. Nays: Wenck. Absent: None. Abstain: Johnson. MOTION DECLARED CARRIED.**

9. VINLAND CENTER - REQUEST TO APPROVE RESOLUTION NO. 14-1028-04 TO ADOPT THE FINAL ASSESSMENT FOR THE VINLAND CENTER SEWER EXTENSION PROJECT.

Add Mayor Johnson again took the gavel or returned to chair the meeting.

Kaltsas stated this is more of a formality than a requirement. The project was completed at the end of 2013. The original assessment amount was \$220,000, and after some changes to the plans costs increased to \$230,747.50, the City completed it for \$213,551. Kaltsas stated earlier this year the Council had discussed making some changes to Ihduhapi Trail as a result of additional traffic being brought in by Vinland Center. Public Works has been working on plans to improve drainage along the side of the road with the remaining \$17,000. The City would be looking to assess the entire amount of \$230,747.50, paid back over a 15-years period, with an interest rate at 5%. The estimated annual payment to the City would be \$22,230.74. Vinland has this information and understands these costs.

Johnson asked if they would pay yearly, or if they were going to pay some upfront. Kaltsas stated they were interested in the yearly option.

**Motion by Wenck second by Spencer to adopt Resolution No. 14-1028-05, to adopt the final assessment for the Vinland Center sewer extension project. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

10. PLANNER MARK KALTSAS AND ATTORNEY BOB VOSE- LINDGREN LANE/INDEPENDENCE ROAD SEWER EXTENSION PROJECT.

Kaltsas stated an ordinance was written with a three year requirement for residents to connect to the city sewer. The deadline for this was December 31, 2013. Residents were notified this connection needs to be made, and there are approximately 10 homes that still need to connect. Staff is looking for direction as they need to follow up on it. He stated several residents have asked the City to connect it for them, and then certify the cost to their taxes. This would be a one-time assessment. If the City did this, a written agreement would be needed. Vose stated in the City's code amendment it allows the City to issue citations if a resident does not connect. He stated the City could also seek to civilly address this through

the courts. Then, with an order from the Court connect it for them and assess the fees to their taxes. He stated the other approach is to ask residents if they would like the City to do this for them; however, an agreement would be needed. Betts inquired how many people would be interested in this type of agreement. Kaltsas stated he was aware of two residents.

Johnson stated SAC charges have increased each year, so the cost is increasing. Hirsch stated some of the residents pulled permits and are working on it, but have not yet been inspected. Wenck stated he liked the idea of sending a letter with an agreement. Johnson stated residents not yet connected have been paying an availability charge of \$124 a year, but this fee could heavily increase if not connected.

Wenck stated connection costs could be difficult to estimate until you know how many homes the City would be connecting. The Councilors agreed the City would need to send a letter to residents, that are required to connect but have not, stating a response is needed within 10-days of receiving the certified letter. The current SAC charge and city hooked up fees need to be listed. Residents will also have the right to hire their own contractors. Vose stated the letter can be sent, but if residents ignore it, the City can cite them and Vose can pursue it legally. Properties without homes would not be included.

**Motion by Wenck second by Betts to direct staff to issue a certified letter to the residents that are required to connect the city sewer, but still have not yet done so. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

11. BECKY AND MATT BUNKER, 5888 DRAKE DRIVE - CONCERNS REGARDING THE NEIGHBORING PROPERTY AND IT' S RIGHTS (5860 DRAKE DRIVE- PREVIOUS OWNERS WHERE THE GUMMERTS AND THE LAST TO SELL WAS VALHALLA)

Johnson explained Becky and Matt Bunker are residents concerned about a property next door to them. Johnson spoke to them previously and suggested they attend the Council meeting to express their concerns; however, he stated no decision will be made at this time.

Matt Bunkers, 5888 Drake Drive, stated they have lived in their home for five years and loves the area. After contacting the City and inquiring about the zoning status, he learned a lot about what is allowed. He read and discussed excerpts from the City Code. He felt the property was in violation of the use of a guesthouse and the use of a Condition Use Permit based on the City Code. The property has two driveways and part of the driveway crosses onto his property. He also discussed drain water issues. He stated the property also has two addresses, and it only has one septic system. Johnson stated in the original agreement it states the homes have to share the same system.

Spencer inquired if the driveway crossed his property when they purchased their property. Bunkers stated it did. Johnson stated the Council has heard their concerns and staff is aware of this matter. Becky Bunkers had further questions about notifications sent to the previous owners. Hirsch stated West Hennepin Public Safety assisted in the eviction process for the renters of one of the homes. This was addressed shortly after the Bunker's conversation with the City. Hirsch thought the concerns had all been addressed. B. Bunkers stated the property will once again be non-conforming use as the new owners will now be renting both homes again.

Brenda Gaphrey stated she and her family just purchased this home, and their intention was for their son to live in the home in the front of the property. She stated that home is in very poor repair. The current

renters live in the back house and have lived there for the last six years. A new septic system was installed just prior to purchasing the property. She stated she had not read the ordinance and was not aware the homes were in non-compliance. She stated they would like to work with the City and the neighbors to better the property. She stated issues from past renters would not be repeated. She is asking for an interim period to make improvements to the home and allow the current renters in the back home to live there a little longer.

Johnson stated this will be a matter that will later be brought to the City Council with staff recommendations. He stated the current home is grandfathered in, so the status of the property will not change. The guesthouse will not need to be torn down. B. Bunkers stated the current renters are not family and are paying rent, so that is where she wanted some clarification. Johnson stated the City will work on this at a future time.

12. APPROVAL TO START THE CITY COUNCIL MEETING SET FOR MONDAY, NOVEMBER 17 AT THE COUNCIL WILL BE COMING BACK FROM A JOINT COUNCIL MEETING WITH MAPLE PLAIN TO RECOGNIZE TWO OF THE LONG TERM RESERVE OFFICERS FROM THE WEST HENNEPIN PUBLIC SAFETY DEPARTMENT.

Johnson described the reason for the meeting. The City Council would be meeting at Maple Plain's new city hall location in the Discovery Center in Maple Plain at 7:00 p.m. After that meeting the City Council will meet back at the Independence City Hall and start the Council Meeting at 7:45 p.m.

**Motion by Wenck second by Spencer to move the meeting from on Monday, November 17, from 7:30 p.m. to 7:45 p.m. Ayes: Johnson, Betts, Spencer, Wenck, and Fisher. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

13. MISC./OPEN.

Park Commission

Betts suggested starting a Park Commission again in Independence. She feels now that there is more building going on, and that it is needed. She suggested maybe involving Maple Plain's Park Commission since they already have one, and it would better the whole community. The Commission could look at developments as they come in. She stated to begin it could be a quarterly meeting. Hirsch stated seven members are too many and after further discussion the Council thought 3 members may be appropriate. Johnson thought special meetings may need to be called when new plans come in. The Commission would discuss parks, park dedication fees, and trails. The Council asked that staff review the role and responsibility of a Park Commission, and then bring it to the City Council for review.

Recycling

Johnson asked about the recycling report and if there has been an increase with the change to single sort recycling. Hirsch stated many residents have informed the City that they now have started recycling because it is much easier now. She stated the more recycling the City does the better the funding the City receives from the County.

Delinquent Utilities

Johnson inquired about the delinquent utility accounts and if there is any tax benefits to doing this. Hirsch stated these figures not supposed to be included in when filing taxes.

14. ADJOURN.

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

Respectfully submitted,

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Jolene Nelson, Recording Secretary