

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL TUESDAY,
MAY 13, 2014 – 7:30 P.M.

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, Wenck, and Fisher

ABSENT: None

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

VISITORS: Joe Baker, Darryl Jorgenson, Ron Jorgenson, Katie & Cody Johnson, Steve Schmitz, Marcia & Mike Kreklow, Chris Lord, Joe Slavec, Tony Brough, Randy Anhorn, Mike DeLuca

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 City Council minutes from April 22, 2014
- Approval of the Board of Review minutes from April 22, 2014
- Approval of the Accounts Payable (Check #'s 13680-13740) for the month of May, 2014
- Approval of the 1st Quarter Report for 2014 (ABDO-AEM)
- Residents located at 361 Game Farm Road are requesting a Temporary Conditional Use Permit to allow them to remain in their current home while building a new one on the same property. The CUP would terminate at 6-months or less, upon receiving their Certificate of Occupancy. This would also include the demolition of the old home to be completed.
- Approval to extend the Pioneer Creek Golf, LLC 3.2% On-sale beer license to now include 3.2% intoxicating malt liquor, wine, wine coolers, frozen liquor; and to serve on Sundays.

Johnson pulled the Temporary Conditional Use Permit from the Consent Agenda. He also proposed accepting the 1st Quarter 2014 Report and work through the information at the workshop meeting on May 14, 2014.

Motion by Wenck, second by Fisher to approve the Consent Agenda excluding the Temporary Conditional Use Permit for 361 Game Farm Road. Ayes: Johnson, Betts, Spencer, Wenck, and Fisher. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Voss discussed the Temporary Conditional Use Permit request for 361 Game Farm Road. He stated the request is to keep the preexisting residence on the property while a new residence is constructed. Once the new home is completed the owners plan to demolish the old home. Voss stated this request would be asking to temporarily relax the City's zoning requirements. The ordinance does not allow two residences on a single property. He advised staff that if allowed a resolution should be signed. Voss felt that a different kind of permission, other than a Condition Use Permit, would be needed and written a resolution. He stated this City is allowed to do this, but he recommends a signed resolution.

Johnson stated in the past we have but this is slightly different. Voss stated due to Conditional Uses being permanent, the city would want to avoid this being recorded in the permanent records.

Motion by Wenck, second by Spencer to direct staff to come back with the proper documents to allow a request from 361 Game Farm Road. Ayes: Johnson, Betts, Spencer, Wenck, and Fisher. Nays: None. Absent: None. MOTION DECLARED CARRIED.

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

Spencer requested adding Joe Baker, the appointed representative for the Pioneer Sarah Creek Watershed District Commission, to the agenda to discuss the Third Generation Plan Amendment.

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

Spencer attended the following meetings:

- Meeting with Joe Baker and Becky Wozney regarding the Pioneer Sarah Creek Watershed District
- Open House for Ray McCoy
- Ray McCoy's Retirement Banquet
- Ride along with Officer Ben Anderson

Wenck attended the following meetings:

- Sensible Land Use Coalition about Shakopee

Fisher attended the following meetings:

- Ray McCoy's Retirement Banquet

Betts attended the following meetings:

- Open House for Ray McCoy
- Ray McCoy's Retirement Banquet

Johnson attended the following meetings:

- Senior Community Services Finance Committee Meeting
- Community Action Partnership Suburban Hennepin County Board Meeting
- Gillespie Center Volunteer Recognition
- Loretto Fire Department Pancake Breakfast
- National League of Cities Conference Call for Small Cities
- Open House for Ray McCoy
- Ray McCoy's Retirement Banquet
- WeCan Breakfast
- Delano Senior Center Recognition
- Gloria Johnson Funeral, Former City Councilmember at Golden Valley
- Love INC Celebration in Waverly
- Orono Healthy Youth Meeting in Maple Plain
- Met Council Land Use Advisory Committee Meeting
- Community Action Partnership Suburban Hennepin County Finance Committee Meeting
- Regional Conference of Mayors in Minneapolis
- Judging the CC Ludwig award Candidates and City of Excellence Award

Hirsch attended the following meetings:

- Meeting with Mark Kaltsas regarding work session items
- Attended the new Heritage Fest Planning Committee with Maple Plain scheduled for Aug 15th 16th
- Ray McCoy's Retirement Banquet
- Meeting with Abdo and Larry Ende
- City Clean-Up Day
- Meeting Marsha from the Pioneer Creek Golf Course
- Chamber of Commerce Luncheon

7. TABLED (APRIL 22, 2014) – CODY AND KATHRYN JOHNSON, 4540 AND 4566 SHADY BEACH CIRCLE, ARE REQUESTING THE CITY COUNCIL TO APPROVE A VARIANCE TO ALLOW A REDUCTION IN THE REQUIRED SETBACK FROM THE OHWL OF LAKE SARAH

Kaltsas summed up the request and why it was tabled. He recapped the request. He stated the lot is considered a substandard lot of record. It was established prior to the city's new standards. The shore land overlay district allows a 60 foot setback from the OHWL. He stated the lot is limited by no more than a 25% impervious surface.

Kaltsas described the lot's location and that it has shore land on two sides of the property; which need to abide by the OHWL setback on all sides. He stated the buildable area while abiding by all setbacks would accommodate a maximum width of a 25 foot home in a small area of the property. He stated the applicants are looking for a reduced setback on one side of the property giving them a setback of 34.1 feet from the OHWL with a variance request of 25.9 feet. He stated the applicant is proposing to meet the required setbacks for the front yard, side yard, and one of the shoreline setbacks. The impervious surface would be 17.5%; which falls below the maximum 25%.

Kaltsas explained the staff report describes the criteria for needing a variance. He stated this lot and situation is somewhat unique to the area. He stated the City Council needs to decide if the applicant's request satisfies the criteria for granting a variance. He stated the new home would be connected to the city's sewer and the home would not have a basement. Kaltsas stated there was another home in the area, 4520 Shady Beach Cir, which received a variance to allow construction of a garage with a 40 foot setback from the OHWL.

Kaltsas stated the DNR reviewed this request and provided formal comments to the city. The DNR recommended should the city consider a variance encouraging the applicant to maximize the setback and design that best fits the property. They also recommend requiring the applicant to provide mitigating efforts that help water quality. Kaltsas stated this request was also reviewed by the city's water resource consultant, and they thought it met all applicable criteria relating to water resources from a technical level.

Kaltsas stated the Planning Commission reviewed this application. He stated a resident just south of the property spoke against the request, with concerns about stormwater runoff, decreased setbacks, and a change in character to the surrounding properties.

Kaltsas stated the Planning Commission discussed the possibility of shifting the proposed home closer to the northern property line, but then this would require a variance from the side yard setback. Ultimately, the Planning Commission determined the proposed location would be acceptable and recommended the City Council approve the application. Kaltsas stated that since this recommendation, the city received the DNR's letter about adding a condition stating the applicants need to provide a water quality best management practice plan. He stated the applicant has since provided the city a revised proposed site plan mitigating some of the runoff.

Johnson inquired about what was previously located on the property and if the land has been altered. The Councilmembers and staff discussed that they could only recall a small cabin that was once located on the property. It was torn down many years ago, but that was all they knew.

Johnson and Spencer discussed the effectiveness of a rain garden, and how effective this would be due to the elevation of the property. Johnson then inquired if there is a requirement for the proposed home to be built on pilings. Kaltsas explain soil borings would determine what could or could not be used and the City's Building Official would review the building permit. The applicant stated it would need to be built on piling. Voss stated this would be an issue for the Building Official to determine and is not tied to the application for a variance.

Spencer inquired about the buffer area on the new site plan. Kaltsas stated based on discussion with the DNR it would likely be a vegetative non-mowed buffer area. He stated this plan is just showing what could be, but it has not been defined. He stated the DNR could work with the owner based on the City Council's ruling.

Spencer inquired about possibly shifting the home further to the west, requiring a small variance on the westside, making the closest setback point to the lakeshore 40 feet, since the city has allowed up to a 40 foot setback previously. Kaltsas stated the Planning Commission discussed this at great length and were

willing to consider this. Wenck asked if the property owner to the west has determined where they plan on building their home. This building plan has yet to be submitted.

Joe Slavec, neighbor and owner of 4520 Shady Beach Cir, stated he was shocked about how the Planning Commission came to their decision. He felt they were not confident with their recommendation. He stated the procedure was not followed correctly. Slavec stated the DNR requires consulting them first when proposing to build in a flood plain. He went on to read about policies set by the DNR. He pointed out examples that he felt pertained to this lot. He read examples from, the North Metro Area Hydrologist, Kate Drewry's letter. He also quoted information from the City Code book Section 5 regarding flood insurance.

Slavec stated there is room to put a structure on this property with a variance of a few feet of what is normally allowed. Had this been proposed, he would not have had an issue with this. He stated he was shocked with how the Planning Commission based their decision on probably and maybe answers to questions and concerns.

Cody Johnson, the applicant who is looking to purchase the property and build on it, stated he and his wife share a lot of the same concerns about the water quality and took a lot of it into consideration with their proposal. He pointed out the surface area calculation was taken into consideration with the location of the home. This is one of the reasons they are proposing to place the home further back from the northern lakeshore. He showed even the shorter driveway length decreases the impermeable surface area. He discussed the option of a rain garden. He stated they are planning on maintaining as much as the natural layout of the land.

Marvin Johnson asked Cody Johnson about the option of moving the proposed home further west and if he has spoken to that owner. C. Johnson stated he has spoken to them and they understand the situation, and to his knowledge the neighbor would be open to a variance. Spencer asked about the discussion with the neighbors. C. Johnson stated the proposed homes location was discussed with the neighbor to the west and the proposed location of the home would allow for a more open sight line for other homes in the area. Spencer and C. Johnson discussed where their water access or dock would be located. C. Johnson stated they planned to access the lake on the northern lakeshore. They discussed leaving the cove area or eastern shoreline more natural and undeveloped. Spencer then proposed shifting the proposed home six feet further to the west. C. Johnson stated the proposed location was used to preserve as many setbacks as possible, but they would be open to moving it.

Betts questioned about the FEMA Insurance. Voss stated the City's Ordinance which allows variances was approved by the DNR. He stated in Kate Drewry's letter it states the DNR would consider a variance request for this application. He stated he has not independently looked at the FEMA eligibility, but is strongly inclined to believe that you could or would not lose it.

Spencer pointed out the flood plain on the map and no part of the proposed home would be within the flood plain. Wenck stated he would be more comfortable with a variance on the west side if he knew the neighbors approved. Voss suggested talking to the neighboring property owner about this.

Johnson stated the Councilmember would like to consider moving the proposed home further on the west side, but they are not comfortable without having something in writing from the neighboring property owner. He asked the applicant if this could be tabled until the next meeting to allow feedback

regarding this change. Cody Johnson stated he would be open to allowing this item to be tabled until the next City Council meeting. Voss explained with written consent from the adjacent neighbor to the west, the existing application can remain with the addition of the variance to the west, but without permission the application would have to be resubmitted and would need to start from the beginning.

Motion by Spencer, second by Betts to extend this item for 4540 Shady Beach Circle until the May 27, 2014. Ayes: Johnson, Betts, Spencer, Wenck, and Fisher. Nays: None. Absent: None. MOTION DECLARED CARRIED.

8. CHRIS LORD – ANOKA CONSERVATION DISTRICT, PRESENTATION OF THE LAKE SARAH AND LAKE INDEPENDENCE STORMWATER RETROFIT ANALYSIS.

Chris Lord, of the Anoka County Water Conservation District, spoke about the Lake Sarah and Lake Independence Stormwater Project. He stated the reason they were in charge of project is because Hennepin County Water Conservation District was a short on staff and asked if they could assist. He stated the object was to increase water quality in Lake Sarah and Lake Independence. The long term goal for the TMDL and the total phosphorus for Lake Sarah is 143 pounds per year and Lake Independence is 535 pounds per year. He stated the purpose of this was to empower local decision makers with the information they need. The report discusses structural and not cultural practices.

Lord stated they did identify a potential 115 projects throughout the watershed. They modeled and ranked 64 of the best most cost effective options. If they were fully implemented the City would reach about 75% of its goal for Lake Sarah and about 97% for Lake Independence, but could cost around 14 million dollars. He explained there are a lot of funding source available to assist with this cost, possibly up to 80%. Lord explained different programs, like wetland banking programs, and ways of planning ahead. He stated the local costs, with planning, could bring the costs down to less than one million dollars. He described various project types to be considered, including residential rain gardens, lakeshore and wetland restorations, hydrological restorations, water sediment control basins, vegetation filter strips, and ponds.

Lord explained what all went into creating this report including shoreland inventory, aerial images, and computer software. He stated the costs in the report include staff time, engineering design, and production loss.

Lord discussed pollutant benefits and ratios, as well as, treatment train effects. He stated the most cost effective measure are listed and ranked in the report. He discussed projects, grant, and more long term planning as written in the report. Lord showed examples of exact costs for some projects. Lord stated this report is simply a tool to help the city.

Spencer stated the projects that were identified in this report are far more detailed than what the city has had in the past. He stated the city's chances of receiving a grant are greatly improved now that the city has the research to support the effort. He stated the report helps indicate where the project should go, points out the benefit, and the costs. Spencer stated some of the projects that Lord discussed were things that the city had not previously considered. This report was part of a grant from a few years ago. Lord stated the community is now ahead of the curve with having this information. The computer technology used in the report has only been around for a few years.

9. MISC. /OPEN.

Joe Baker thanked the Council for appointing him to the Pioneer Sarah Creek Watershed district Commissioner. He explained he is a resident that lives on Lake Sarah. He stated he feels that both Lake Independence and Lake Sarah are a treasured resource that are impaired and need to be improved upon.

Baker stated his approach is to understand the costs of projects and to keep the costs down. This includes seeking out any available grants and donations. He referred to the report Chris Lord presented as a great tool that will really help in the effort to better the lakes and creeks and lower the TMDL.

The Third Generation Plan is a ten year plan that is being reviewed this week. Baker stated the Watershed district Commission is very challenged right now with limited funding and some Cities are dropping out. The Commission needs to demonstrate positive results or they may no longer exist. Baker stated the Pioneer Sarah Creek Watershed district has currently been funding projects for the city at a level of 10%. He is asking for the Council's continued support of the Pioneer Sarah Creek Watershed Commission. He stated he believes a locally ran watershed will be best take care of investments and make the most cost effective decisions. His hope is to keep the Commission as it is, and he encouraged Councilmembers to become more active in the watershed and educational opportunities.

May 27, 2014 City Council Meeting

Wenck and Hirsch stated they would both be out of town for the May 27th City Council Meeting.

15. ADJOURN.

**Motion by Spencer second by Wenck to adjourn the City Council Meeting at 9:25 p.m.
Ayes: Johnson, Betts, Spencer, Wenck, and Fisher. Nays: None. Absent: None. MOTION
DECLARED CARRIED.**

Respectfully submitted,

Jolene Nelson, Recording Secretary