

MINUTES OF A REGULAR MEETING OF
THE INDEPENDENCE CITY COUNCIL
TUESDAY, MARCH 7, 2023 – 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 Spencer, McCoy, Betts, and Grotting

ABSENT: None.

STAFF: City Administrator Kaltsas and City Attorney Vose

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 February 9, 2023, Special City Council Meeting.
- b. Approval of City Council Minutes from the February 21, 2023, Regular City Council Meeting.
- c. Approval of Accounts Payable; (Batch #1 - Checks No. 21856-21867 and Batch #2 - Checks No. 21868-21882).

Motion by Spencer, seconded by Betts to approve the Consent Agenda. Ayes: Johnson, McCoy, Betts, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 5.0

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:

- Planning Commission mtg
- Advanced Leadership Conference – League of Minnesota Cities

Spencer attended the following meetings:

- League of Minnesota Cities Conference
- Hwy 12 Corridor Coalition
- Ribbon Cutting for North Memorial
- Stopped by our Public Works Dept to thank them for their recent straight 37 hours
- Conference calls with Senator Warren Limmer and Rep Kristin Robbins

Betts attended the following meetings:

- Ribbon Cutting for North Memorial
- Hwy 12 Coalition Mtg

McCoy attended the following meetings:

- Ribbon Cutting for North Memorial

Johnson attended the following meetings:

- Hwy 55 Executive Committee Coalition Mtg – April mtg will likely be here
- League of MN Cities Conference
- Orono School Board Workshop – latest student survey shows huge reduction in substance use
- Hwy 12 Corridor Safety Coalition
- Judy Johnson. MetCouncil – re-appointed to our district

Kaltsas attended the following meetings:

UPDATE: DEED Grant was submitted with lots of support letters- 30% of those contacted responded. No results are expected until early to mid-Summer and would serve almost all remaining residents without access to broadband wired. If successful in getting that grant, the City would see a 2024 buildout for the North and NW half of Independence. Midco and Hennepin County DEED said that they'd never seen an application that robust. Johnson thanked the residents for responding.

Johnson sent a letter of support to the Hanover Mayor in hopes of getting funding for addressing the section of Co Rd 19 that intersects with two other county roads by the park.

7. Senator Warren Limmer (37, R) – Annual City Update.

Senator Warren Limmer (37, R) came to introduce himself after redistricting that happened a year ago as it happens routinely throughout the US every 10 years according to population to make sure we are equally represented. He'd previously represented northern Hennepin County but is currently representing 90% of Maple Grove and all of Corcoran, Greenfield, Independence, Medina, Maple Plain, and Loretto. Although our District's population decreased, our region is actually larger. With the likely continued growth of this region, he's anticipating some growing pains in road construction in the next 1-2 decades, and he is happy to help in those areas following the Council's lead. He likes smaller government and believes the City of Independence is doing a wonderful job for its residents. He's lived in Maple Grove for 40 years seeing its growth, and although he knows his Western Hennepin County communities are wondering what's ahead for development, just know that he won't dictate terms regarding infrastructure. We can get help from the State within the limitations- no local construction but rather bigger infrastructure like the City of Medina's water tower needs. If that arises for Independence also, I'll be in my office to help. Sen. Limmer authored SF 813 "Medina and Independence railroad crossing safety improvements bond issue and appropriation," and it was introduced but awaiting its hearing. The bill is to improve the ramp ups to railroad crossings. He is currently serving on the Judiciary and Public Safety Committee (Public Safety's personnel including issues

of Law Enforcement, Public Safety, and Fire). He chaired the committee for 6 years and is still a ranking member of it and has gotten to know lots of public servants throughout the state. Law enforcement has had a tough ride the last few years and has been unfairly judged. We're there to ensure all cities have adequate law enforcement while satisfying all citizens' civil rights so we have a good, well-balanced expectation of "when you break the law, there is going to be a penalty." That's in question in the legislature. Some want to reduce penalties for those who chronically commit crime. I think it's the wrong way to go and other cities have tried it, only to find it does not work. A reasonable, practical, and proportional response to crime as a criminal sanction is necessary and required. If we go down the path of weakening our judicial reaction to crime, we will roundabout it again in a few years. Addressing the root cause of crime is a complex issue and is important. Thankfully Independence only has little spikes every once in a while.

Mayor Johnson thanked Sen. Limmer for his letter of support for the **broadband DEED grant**. He had a meeting with the Department of Natural Resources with Kristen Robbins re the Luce Line Trail crossing. 4 DNR joined us and is the first to be challenged with the easement. They emphasized only needing to pay \$2,000 for the application. Not all neighbors can pay that. Resulting the Assistant Commissioner said he wants to go back to see what can be found when the Luce Line was put int. So that was progress. The DNR should find money to clean it up if needed. Limmer has previously worked with Bob Meier, DNR, who was getting back to Rep Robbins. Johnson stated we want to keep moving on **Hwy 12 funding**. We have the study and are recommending the 4-lane divided highway from here to Delano. We got the bridge done at Co Rd 92 and the roundabout at Co Rd 90. Limmer agreed this project is needed and wanted to see the study. He asked someone to please send it to him. Kaltsas stated both a full safety audit and a full study were done leading to a Preferred Alternative Design Development Plan for 4 lanes. We're a few million in but need funds for its reconstruction. The section of Hwy 12 in Independence from Co Rd 90 to the Hennepin County border is the oldest section of unreconstructed highway in the metro. It's never been reconstructed in its lifetime. We have gone through the process and just need funding to be escalated. Unfortunately, we are in the Metro District's funding but in St. Cloud's maintenance. It's too bad they can't line this up because this would become the highest prioritized project in St. Cloud's district by volume and traffic. If going to the other side of the County Line, all of Hwy 12 has been updated multiple times moving West. District 3 St. Cloud maintenance and they would love to rebuild this as it serves their Western cities. Limmer agreed how oddly it was misaligned and that after the next 2 weeks his schedule would be much more open. He was open to getting together early in the morning to discuss this further. Johnson stated that the City is part of the Hwy 55 Corridor Coalition and wants to see funding for 4-lanes from Hamel to Co Rd 19 North of Loretto. Thankfully Limmer and Robbins have a bonding bill on that as well. We have been active on the I-94 Coalition and have been rather successful going from Maple Grove up I-94 to St. Cloud. Even though Maple Grove has been checked off as getting what they ask for, they are not stepping away from a Coalition membership. We need to keep that voting block together as it helps other projects. He is eager to work with Independence and Maple Plain as the new guy. Councilor Spencer appreciated Sen. Limmer's responsiveness to his call.

8. **PUBLIC HEARING:** Consideration of Conduit Bond Issuance.

- a. **RESOLUTION 23-0307-01:** Considering the authorization of the issuance, sale and delivery of revenue bonds for 180 Degrees, Inc. Projects (this includes the renovation and expansion of two facilities; "Minneapolis Project," and together with the St. Cloud Project, the "Projects").

Johnson opened the public hearing. The City was approached late last year by someone seeking conduit financing. We have considered it in the past. It is to allow renovation expansion of two facilities owned and

operated by 180 Degrees, Inc. Their St. Cloud youth shelter would be doubled in size and a 1,500 SF, 37-bed transitional facility in Minneapolis. The City talked with them more about the project and more details. We asked them to work through Kennedy & Grave for review and K&G did review it. It is a \$6 million issuance, and it would take advantage of tax availability. We are not planning on issuing any bonds this year, and this is a way to generate some income for the City. This is not utilizing its full availability. We have a fee of \$25,000. We have no obligation for the bonds themselves. It is a way to generate income. We don't have much debt, so this is a good way to generate income.

Mark Deraney, AMKO Advisors –Ron from our bond council is also on the line. We help municipalities on nonprofit organizations finance or refinance projects. 10-fold advisors. We can help nonprofit organizations by issuing debt through a conduit. I've been working with 180 Degrees in St. Paul for over a year. They have 5 facilities. Their mission is to assist primarily young people and people in need. The St. Cloud facility is a youth shelter and the Mpls helps men coming out of prison as they assimilate into society and help them as working members of society. We've been very impressed with them and are one of the best run organizations that I have come across. They have great fundraising. The facilities are old and need better technology, beds, etc. They also work with abused women and children. We are looking for a single issuer for both projects. The projects need to affect the community who is acting as the conduit. We are not anticipating any other debt in 2023 or anything more than \$4 million, limiting it to \$6 million total. The \$10 million is for a bank qualification designation. 180 Degrees is a very valuable organization to the community, and you don't have any liability for the debt. There will be a fee revenue of 0.5% so your income generated could be \$25,000-30,000. Dan Pfarr has been 180 Degrees' CEO for about 5 years and has really served them well. They'd received \$1.5 million grant for the St. Cloud project and has begun construction already and additionally received \$1 million grant for Minneapolis. They will continue with fundraising.

No one was present to speak at the hearing.

Motion by Spencer, seconded by Grotting to close public hearing. Ayes: Johnson, McCoy, Betts, Spencer, and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 5.0

Motion by Grotting, seconded by Spencer to approve RESOLUTION 23-0307-01 as written. Ayes: Johnson, McCoy, Betts, Spencer, and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 5.0

9. Windsong Golf Club – North Course Expansion Project: Environmental Assessment Worksheet.

- a. **RESOLUTION NO. 23-0307-02** – Resolution issuing an amendment to the negative declaration of the need for an Environmental Impact Statement for Windsong Golf Club north course expansion project.

We had approved a resolution that issued a no further action, but recently the MPCA notified us that they had not seen responses to their comments. The Windsong's Engineer had forgotten to include their responses but have amended it to include them. So, we need to amend our resolution and re-approve it including the MPCA comments. No material comments were added. This resolution has been revised to include the updated Findings of Fact and Conclusions. They are still working on the wetland issue. We had allowed them to remove some trees but nothing further yet. They are working through the City to get their wetland delineation and replacement mitigation plan completed. It's close.

Motion by Spencer, seconded by Betts to approve RESOLUTION 23-0307-02 issuing a negative declaration for the need. Ayes: Johnson, McCoy, Betts, Spencer, and Grotting. Nays: None. Absent: None. Abstain: None. MOTION DECLARED CARRIED. 5.0

10. William Stoddard (Applicant) and John Zeglin (Owner) requests that the City consider the following actions for the property located at 9285 US Hwy 12, Independence, MN (PID No. 18-118-24-21-0001):

- a. **ORDINANCE NO. 2023-01** – Rezoning of a portion of the property from AG-Agriculture to UC-Urban Commercial.
- b. **RESOLUTION NO. 23-0307-03** – A Resolution approving the following:
 - Comprehensive plan amendment to allow a portion of the property to be re-guided to the Urban Commercial - UC zoning district. A portion of the property is already guided Urban Commercial.
 - Conditional Use Permit to allow a planned unit commercial development on the subject property. The proposed development would include office warehouse and private garage condominium buildings.
 - Site Plan Review to allow the proposed development.
 - Preliminary Plat to allow the subdivision of the property into seven (7) residential lots and associated lots to allow the proposed commercial development.

Kaltsas recapped the details of the Request, Property/Site Information, UPDATE, 530.11 Lot Standards, Planned Development Standards, and Planning Commission Discussion and Recommendation. The owner's 16-acre middle section is what is being proposed to be rezoned from AG/Agriculture to UC/Urban Commercial matching the acreage furthest away from Nelson Rd (shown in red). If that Comp Plan Amendment regarding is approved by the MetCouncil, the City would then be in a position to rezone that. A proposed ordinance is in the packet for the rezoning, but it needs to follow MetCouncil plans. We could approve this stating "subject to MetCouncil's approval," but because there is a 2nd step, I think we should pull the ordinance for rezoning until we have that approval. He clarified to the Mayor that this is working under the 2040 Comp Plan, and the City will have that adopted and then submit a subsequent amendment to that plan. We are also talking about a CUP/Conditional Use Permit allowing a Planned Development. All commercial developments are subject to Site Plan review and additionally we are considering a Preliminary Plat. Attorney Vose and I talked about removing the CUP as formal consideration tonight noting that we need to do Final Plat and rezone so we should do that then. For tonight, I removed CUP from the resolution verbiage. We are considering Site Plan review for commercial development and a Preliminary Plat for tonight. These 58 acres are zoned AG/Agriculture on East side and UC/Urban Commercial on far West side. UC zoning ties into the next property. Plans show 60 acres Urban Commercial at Hwy 12 & County Line Rd (shown as blue outline). This property is bisected by our Comprehensive Plan. The applicant prepared a plan of two types of development. Commercial and Residential. Core of property is auto lifestyle condominiums (southern site) and NW corner – 10,600 sqft of a retail building. The East side shows 7 single family lots mirroring lots on East side of Nelson. Lot size minimum of 3.25 acres and maximum of 4.5 acres. They would be larger in depth than the lots across the street. The Planning Commission thought this type of housing will create a long-term transition between historically developed residential and current new development. As you know, this property has been on the market for 15+ years, and we have received a

wide array of land use proposals for the entire acreage – apartments, large warehouses, churches, schools, etc. Mayor Johnson asked if there was a creek there. Kaltsas replied that there is a large wetland that goes through to the South down to Maria. The SE corner is upland with a wetland complex with drainage by Nelson Rd (Lots 5-7). It was originally 8 lots and they changed it to 7 due to losing some land for a future frontage road to avoid commercial access on Nelson Rd. as it was not built for cross traffic. The Property owner to the West was not willing to grant access from County Line Rd to the new development. The developer proposed a Right-In Right-Out/RIRO access off of Hwy 12. It would be divided access with a right-in lane coming in eastbound Hwy 12 and a right-out lane going west on Hwy 12 serving as the primary access to the property. We have had a lot of meetings with MNDOT regarding this access, and initially they didn't want a RIRO but wanted a full connection to Nelson Rd. Lots of options were discussed. But having noted the City's ordinances prohibit commercial development from connecting to residential streets, they may allow RIRO temporarily until there is full access to Nelson Rd. The Planning Commission recommended holding tight on our ordinance with no connection on Nelson Rd and put it back on MNDOT and to approve this with a RIRO only. MNDot's wondering how Westbound traffic would enter this site. They'd have to go to County Line Rd, get into the left turn lane (a fully protected lane with a turn arrow) making a legal U-turn or turn onto County Line and come on to Hwy 12. They were concerned about that being an unnatural movement. Additionally, they were concerned about westbound traffic from this site would make illegal turns onto Hwy 12. We noted the study and plans for Hwy 12's preferred alignment that Nelson Rd would be a RIRO and then that westbound turnaround for Nelson Rd is the County Rd 92 roundabout. They said this RIRO is too far away from that. Being this is 400 FT more, it's too far for this then too. The Applicant did a traffic analysis showing low traffic even with the retail. The Planning Commission's first review suggested to obtain a future frontage road ROW allowing for the connection of Nelson Rd all the way to County Line Rd and close Nelson Rd entirely providing a safe access to what will likely be the roundabout at County Line Rd and Hwy 12 or a full integrated 4-lane with more safety features. When telling MNDot we would recommend to Council to commit to the frontage road acquisition along with making a general statement being willing to consider full closure to Nelson Rd if Hwy 12 is upgraded, they really liked all of that. But MNDot still thinks you should connect to Nelson Rd. Planning Commission recommends approving the Preliminary Plat and Site Plan Review as drawn including the dedication of 66 ft wide frontage road ROW/right of way and RIRO/right-in right-out on Hwy 12 access. The future frontage road ROW/right of way and outlot dedicated to the City (shown as Blue on plan) with potential ROW development eventually serving Lots 1-2 and driveway access off that future frontage road having a shared driveway until then out to Nelson Rd. Plan Development Standard's Uses would be limited initially due to that limited access. The Applicant is dedicating more parking spaces than Parking Analysis minimum. The updated Lighting plan will satisfy residents' concerns showing no measurable intensity of light but not that it couldn't be seen a mile away and none to the lot perimeter. The City requested parking lot lighting for public safety needs. The Planning Commission's review of the architectural plans and materials showed that it meets the cohesive, unified standard of the Urban Commercial ordinance. Applicant was asked to bring a sample of the materials board; it's corrugated metal with glazing with a modern industrial architectural feel. Garage door panels are opaque on the bottom and translucent on the top. The commercial building and condos share the same cohesive look. With landscaping, there are a couple areas to improve consistency within the PUD standards: Having enhanced landscaping along the backside of the residential area (Lots 2-3) and future frontage road to screen and buffer the commercial side. Residential lots must be compliant with our normal AG lot standards. Planned Development standards were discussed and developed. Permitted Uses were specifically written as until future road improvements would be made giving the Council to approve uses not expressly mentioned. No accessory uses. Telecommunication towers would be a CUP. The Planning Commission recommended approval as noted with the City Attorney's recommendations of removing the rezoning and CUP to save them for the next step.

Grotting discussed citizens' possible option of expanding the UC into AG, seeing the East side edge of Rural Residential potentially asking, "Why can't I expand Rural Residential into my AG lot?" (Rigid line on

the E side.) Kaltsas said they consider the same factors when making decisions. The City doesn't have many lots with these same parameters. Requests for and inquiries about CompPlan amendments do happen. Developing these residential lots creates a hard break and gives the City better leverage going forward. Otherwise, the commercial development could continue down Hwy 12.

Grotting reiterated it is a case-by-case situation and citizens could make requests. But with the Urban Commercial setting, this is a good solution.

Kaltsas said it is Planning Communities Basics. There will be a density node to grow around the Delano commercial area and a node near Maple Plain's node. The City's edges would be those areas. We would need to have a MetCouncil change, and as we've seen, MetCouncil does make changes. The possible future connection to Nelson, not going through without going through to County Line Rd. We would own it and have the ability to construct a road although we don't want it at this point. It's best developed when Hwy 12 is developed whether as a MNDot partnership or City project. Either could say they need to take that ROW/right of way, but it's not what is happening today.

Vose & Kaltsas discussed that as mentioned in points 2.i. (and 2.g.) of Resolution 23-0307-03 regarding the shared driveways and maintenance agreement and easements for lots 1&2, 3&4, and 6&7 that the City will be a party of the Maintenance Agreement since the City will own the land. Also note that the plans for the shared driveways were done after the wetland review was completed and are meant to minimize the wetland impacts to those lots.

Bill Stoddard, Builder agreed that everything Kaltsas presented was accurate, and he was looking for an approval tonight so to be able to talk to MNDot again and move towards getting MetCouncil's approval. They have not looked at the legal access that's on the MNDot Map. This would be very helpful. He answered Council's questions sharing that the Auto Condos' roofs are pitched although they might appear flat. There will be on-site sewer (septic) and on-site well water to serve the Fire Suppression requirements. Kaltsas has financials to discuss for municipal water pricing if it makes sense. Sen. Limmer had previously mentioned that grant funds may be available for that. Both the 10,600 SF Commercial Warehouse and the Auto Condos are required to be sprinkled. There are two 3-inch wells for the auto condos plus one larger for the fire control water needs. Stoddard would work with the City as needed if municipal water is decided upon.

Betts asked about MetCouncil's timeline. Kaltsas replied that the City is close to getting a date for the 2040 CompPlan approval and believes this will fall under the minor amendment threshold. He is hoping to submit it now subject to the 2040 Plan being approved and believes it would be a staff level approval and would not need to go through MetCouncil's approval. We might have an approval date by the end of the week, so we could be done with the Plan within 45-60 days. There's a little Medina issue being dealt with.

Spencer wanted #2 of the 2nd page of the Resolution clarified that it was future.

Vose stated that changes cover what Kaltsas and I discussed. 2. Language is when the CUP gets approved at a later date.

Stoddard – In tonight's resolution, we need to apply for Final w/ Preliminary Plat, can we have more than 90 days if it takes MetCouncil longer? Additionally, they're reviewing the 204 plan, They won't do a separate amendment for it. Application and provide title... not the city's action. We can extend it later if needed.

Grotting- Architecturally, over time if the auto-condo becomes less popular, will we architecturally survive any potential change. Each unit has a minimum size of 1,000 SF, 25x40ft. HOA won't be cheap and well maintained for perpetuity. The finishings are high end. Permitted use requires owners to come before Council to request any changes.

Kaltsas- It's a good point. One individual basis, an owner could sub-lease it to a buddy, but they are privately owned and could be converted into storage, but there's lots more cheaper storage options out there. This is high-end.

Grotting thought the commercial garage doors were a cool look, but the occupant opening it up, is there a use to not have a Precision Tune. What use on the Commercial spaces would those be?

Stoddard wanted to show flexibility and presently don't have specific owners. Glass and garage doors were both shown for showing flexibility. Grotting- If a high-end show room.
Johnson asked if the Condo HOA were for one unit or for each section.
Stoddard said the Commercial building is separate from Auto Condos similar to the industry norm. So an owner could own both but paying for both. There would be just one Condo Association.

Motion by McCoy, seconded by Grotting to approve RESOLUTION 23-0307-03 approving an Amendment to the 2040 Comprehensive Plan, Site Plan Review, and Preliminary Plat (with the CompPlan Amendment being subject to MetCouncil's approval). Ayes: Johnson, McCoy, Betts, Spencer, and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 5.0

11. Open/Misc

12. Adjourn

Motion by Spencer, seconded by McCoy to adjourn the City Council Meeting at 8:18 pm. Ayes: Johnson, McCoy, Betts, Spencer, and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 5.0

Meeting Adjourned.

Respectfully submitted,

Linda Johnson, Recording Secretary