

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, MARCH 19, 2013 – 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, Fisher, and Spencer

ABSENT: Wenck

STAFF: Administrative Assistant Nelson, Bob Vose, Mark Kaltsas, Ray McCoy

VISITORS: Doug Heyvaert, Dudley & Bente Bartholow

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 February 12, 2013
- Approval of the Accounts Payable for the month of March, 2013.
- Approval of the request to waive the monetary limits on tort liability established by MN Statutes, to the extent of the limits of liability coverage obtained from LMCIT.
- Approval of the extension of the Loretto Fire Department Fire Contract to April 15th, 2013.
- Approval of Agricultural Preserves Applications for Robert and Janet Selstad (3525 Independence Road, PID# 11-118-24 41-0002) and Gerald and Donna Hendley (4150 South Lake Sarah Drive, PID# 02-118-24 43-0001).
- Approval to have new signature cards signed at the Bank with the current approved Staff: Marvin Johnson – Mayor, Brad Spencer – Vice Mayor (Councilperson), Dan Koch – Public Works Director and Toni Hirsch – City Administrator.

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

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

HVAC reimbursement for WHPS

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Hennepin Conservation District & Hennepin Environmental District Meeting
- Ground Breaking for the New 911 Facility
- WHPS Citizen's Police Academy
- Planning Commission

Wenck attended the following meetings:

Absent

Fisher attended the following meetings:

- None

Betts attended the following meetings:

- SLUC Conference
- Maple Plain Fire Commission
- Chamber of Commerce Meeting
- WHPS Police Commission Meeting

Johnson attended the following meetings:

- NW League Meeting
- Drug Task Force Dinner for Hennepin County
- Community Action Partnership for Suburban Hennepin County Finance Meeting (twice)
- Community Drug Meeting at Mound
- Vinland Center Annual Walkabout
- Ken Nordeen 90th Birthday Party
- Evaluation with the Public Safety Director
- Ground Breaking for the New 911 Facility
- Senior Community Services Finance Committee Meeting
- Day at the Capital Meeting with Hennepin County Legislators
- Sensible Land Use Conference
- Minnehaha Watershed District Stakeholders Meeting
- Maple Plain Fire Department Meeting
- National League of Cities in Washington DC
- Community Action Conference in Washington DC
- WHPS Police Academy
- Hennepin County Active Living Committee
- WHPS Police Commissions

Nelson attended the following meetings:

- Hennepin County Recycling Meeting

7. RAY MCCOY-WEST HENNEPIN PUBLIC SAFETY DIRECTOR, FEBRUARY 2013, ACTIVITY REPORT.

McCoy gave thanks to Dudley and Bente Bartholow for donating their home to be used for emergency exercise training sessions for the Fire and Police Departments. He stated it was a rare opportunity, and he and the departments really appreciated it.

McCoy stated as of this year WHPS has responded to 1,112 incidents; which is up slightly from 2012.

McCoy highlighted a few items including:

- Officer Anderson's crime scene training exercise with the Cub Scouts. He stated it is a fun way to get involved with the kids and build relationships.
- Securing the doors and windows on a foreclosed property; which has had some issues in the past.
- A Garage Fire
- Arrested some burglars looking for copper to scrap.
- Discovery Center – Smoke in the building. Children were evacuated, and it went very smooth due to regular daily police presence and frequent drills.
- Drug issues reported and a search warrant lead to discovering stolen items from a Maple Plain business totaling \$22,000.
- Various Domestic Abuse Arrests
- McCoy hosted an internet and social media safety event to junior high parents. He stated the purpose was to raise safety awareness.

McCoy stated Officer Boelter will be retiring April 30th and will be sorely missed. A retirement party date is still to be determined.

McCoy stated the annual budget is running on schedule. They have taken in 22% of the budget and spent 19% of the budget.

McCoy stated they are revamping their policy and using Lexipol Program; which offers automatic updates with this service.

McCoy stated Mayor Johnson did a job performance review on him. McCoy was happy to say he is still employed and enjoys serving the two cities.

McCoy informed the Council that WHPS has hired two new officers, Russell O'Fallon and Andrew Braun. He further explained their background, and stated he looked forward to them joining the department.

McCoy informed the Council that Hennepin County Emergency Management is installing a weather station in various parts of the County, roughly 25 to 30 stations. A station has been mounted on top of the building and measures wind speed, barometric pressure, rain, temperature, and so on. Information from the station will be feed to the National Weather Service and accessible by computer. McCoy stated this system is well overdue for this area.

McCoy stated at the Police Commissions meeting they discussed WHPS lease term agreement. The City Attorney, Bob Voss, was there and can further discuss the agreement.

Voss explained that WHPS sublets a portion of the building from the City. He further explained the background and the Off-set Agreement; which stated WHPS would be responsible for routine maintenance. He stated at a later date a lease agreement was made; which explained more routine maintenance issues including the department paying for HVAC. McCoy feels the lease agreement is not consistent with the Off-set Agreement and feels that paying for HVAC repairs is not a routine maintenance expense.

Voss drafted new language to amend the agreement. McCoy and Voss reviewed it and came to an agreement and proposed amendment. Voss explained the changes:

1. If the Off-set Agreement was dissolved and rent was required, the market rate for rent will be negotiated at that time.
2. WHPS would be responsible for the cost of yearly maintenance of HVAC equipment but not for repair or replacement of the HVAC equipment as it is non-routine capital.
3. It states WHPS is only responsible for the portion of the building it occupies.
4. It allows improvements to be done to the Conference Room at WHPS expense.

Voss stated these changes were discussed at the Police Commissions meeting and the City of Maple Plain also agreed with these changes.

Voss stated the Off-set Agreement is simply between the Cities of Maple Plain and Independence, not the Police or Fire Departments. He suggested this agreement is also in need of some updating.

Spencer asked if items like water heaters also fell into this same category and if the City would also be responsible for the physical condition. Johnson and Voss stated it would. Nelson cautioned deferred maintenance could cause the City to pay for what could have been preventable repairs. Voss stated the WHPS is responsible for yearly maintenance and failure to do this would result in a breach of contract, thus making WHPS responsible for repairs.

Voss stated a conflict developed when three HVAC items needed replacing this year. McCoy reiterated they do routine maintenance twice a year yet three of the systems were red flagged. He felt this wasn't WHPS responsibility to repair them.

Motion by Betts, second by Fisher to approve the amendment to the sublet agreement with WHPS. Ayes: Johnson, Betts, Fisher, and Spencer. Nays: None. Absent: Wenck. MOTION DECLARED CARRIED.

McCoy asked if this would be retro-active and if the City would reimburse WHPS for the recent HVAC repairs. Johnson suggested making a separate motion for the HVAC replacements.

Motion by Betts, second by Spencer to reimburse WHPS for repairs recently completed to the HVAC. Ayes: Johnson, Betts, Fisher, and Spencer. Nays: None. Absent: Wenck. MOTION DECLARED CARRIED.

8. DUDLEY BARTHOLOW (APPLICANT) REQUESTS THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 4804 PERKINSVILLE ROAD, INDEPENDENCE, MN (PID NO. 24-118-24-14-0001): RESOLUTION NO. 13-0319-02

- a. A Conditional Use Permit (CUP) to allow commercial indoor storage in the existing farm building located on the property.

Kaltsas explained the applicant was requesting a Conditional Use Permit to allow indoor commercial storage in an existing farm building. He described the property's location, size, and the long and narrow layout. The property is 4.68 acres and did have a primary residence on the property that borders the City of Medina. He stated the property is zoned agriculture and guided rural residential. In this district, commercial indoor storage is only allowed with a Conditional Use Permit and only in existing accessory structures.

The City ordinance states it must meet the following criteria.

1. the applicant establishes that the building has been in continuous use for agricultural purposes for at least ten years preceding the application for the conditional use permit,
2. the building is located on property that is owner-occupied; and
3. the applicant establishes that the structure cannot be economically used for agricultural purposes.

Kaltsas explained the location of the previous home on the property and that the property shares a driveway with a neighboring property. He stated the accessory structure is set in the front of the property near the road, and has its own driveway.

Kaltsas stated the accessory structure was built in the 1970's and has been in continuous use by the previous owner. He stated the applicants plan to rebuild a home on the property this year. It is no longer in used for agricultural purposes due to the size restraints of the property.

Kaltsas stated the criteria for granting a Conditional Use Permit have also been met. These criteria include: protecting and preserving the health, safety, and welfare and reasonable use of the surrounding properties. The accessory building has recently been renovated, and the building's location is somewhat screen by a wooded area on three sides.

Kaltsas stated there are several other properties on Perkinsville Road that also have a Conditional Use Permit.

Kaltsas stated the Planning Commission reviewed the information and made a recommendation to approve subject to the conditions in the report and with the addition of adding hours of operation restrictions included in any lease documents. The Commissioners wanted to also add a provision stating upon the first annual review of the Conditional Permit the property would be owner occupied.

Kaltsas stated the owner of the property also met with neighbors and submitted a petition, signed by neighbors favoring the proposed use, to the City.

Johnson asked if there currently was a Conditional Use Permit on the property, as he recalled previous owner's bringing a request to City Council. Kaltsas said there is not because the owner's were using it as an agricultural use, making honey. He stated there were no other permits for the property on record.

Johnson stated he assumed there would be no maintenance within the building. Kaltsas stated there would be no operations taking place, just storage. He stated the use would be reviewed upon the annual review.

Johnson asked about the shared driveway use and if there was an easement. Bartholow, applicant and owner of the property, stated there is an easement on the driveway.

Spencer stated he thought the Planning Commission did a really good job reviewing this.

Motion by Spencer, seconded by Betts, to adopt resolution No. 13-0319-02 approving a Conditional Use Permit to allow commercial indoor storage in the existing farm building located on the property.

Bartholow inquired if the hours could be extended as he has noticed service trucks on the neighborhood roads at all times of the day. Having extended hours would allow a renter better access and easier to find a renter.

Johnson stated in some situations the City has allowed hours to be more restricted only on weekends. Kaltsas explained for recent approvals of commercial indoor storage Conditional Use Permit the City has used these hours.

Johnson asked if people will be regularly coming to pick up items at hours outside of these set hours. Bartholow stated they do not have a renter yet, but he wants to make sure the renter can abide by the rules. He stated examples of people who may want to rent the space: a small business, lawn care company, plumber, electrician, or a contractor.

Johnson cautioned those renters are more of a business and the building is to be used just for storage. Betts also agreed that would be a completely different Conditional Use Permit. Fisher stated if people are coming and going everyday that would be a problem. Johnson stated if he would like to make an amendment to this and would like to include business you could bring this before the Planning Commission again. Kaltsas stated the City does not allow a business in this zone. It really can only be used for storage. Bartholow asked if a business occasionally could go and pick up an item outside of these hours. Kaltsas stated the Planning Commission did not have an issue with occasionally getting access nor do the City Councilors. Spencer stated the restricted hours came from storage buildings storing boats and off season accessory storage. Kaltsas stated the properties in the area that have a Condition Use Permit were issued those permit years ago and would no longer be eligible. Bartholow stated he would leave the Conditional Use Permit as is, just storage. Johnson stated if the hours cause an issue you may want to come back and discuss it with Kaltsas again.

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

9. DOUG HAYVAERT (APPLICANT) REQUESTS THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 860 KUNTZ DRIVE, INDEPENDENCE, MN (PID NO. 28-118-24-34-0001): RESOLUTION NO. 13-0319-03

- b. A minor subdivision to permit a rural view lot to be subdivided from the property.

Kaltsas explained the properties locations and the current sizes of the properties. He stated the existing property has no structures and is comprised of agricultural land and tree coverage. The subdivision would create a second buildable lot on this property. The property is zoned and guided agriculture.

In the current condition the property is 43.66 acres and the after condition would make the North parcel 35.13 acres and the South parcel 8.53 acres.

Kaltsas stated the applicant is proposing to subdivide the property to create one (1) rural view lot. The City's ordinance allows for one (1) rural view lot for every 40 acres of land under the same ownership, creating a total of two (2) buildable lots. In the current condition the property is 43.66 acres and the after condition would make the North parcel 35.13 acres and the South parcel 8.53 acres. He stated the two lots meet the City's criteria for a rural view lot, 8.63 acres, frontage 325.57 LF, lot frontage to depth 1:4, and 6.5 acres of useable upland. The tree line creates a natural brake from the proposed South parcel. A wetland is located on the Western side of the property and any structures built upon that lot would need to abide by all set-back requirement. The applicants submitted a report verifying there are two locations that accommodate an on-site septic system and it depicts the drainage and utility easements. Kaltsas stated that the Southern parcel would need to construct a new driveway off of Kuntz Drive. The Northern parcel would also have access off of Kuntz Drive.

Kaltsas stated the newly created parcel would be required to pay a park dedication fee.

Kaltsas stated that Kuntz Drive is technically a cart-way, as it is only 33' with a cul-de-sac bulb on the end. He explained it would be a good time for the City to take a 33' easement for a future Right-of-Way. He stated the Planning Commission determined it would be a good time to request the easement, and should the property south of this subdivide an easement would be requested at that time.

Johnson asked what the dimensions were of the entire road. Kaltsas stated the whole road is 33' wide. Johnson was surprised how narrow it was, and he inquired if there are roads in the city this narrow. Kaltsas thought of one example, but he stated there was not many.

Kaltsas explained if the edge of the road were extended to the edge of the cul-de-sac bulb the road would be 66' wide.

Kaltsas stated the rural view lot meets all the City's criteria and the City has not received any comments regarding the subdivision.

Kaltsas stated the Planning Commissioners did recommend approval to the Council of the minor subdivision with the requirement for the 33' easement along with the findings in the staff report.

Johnson asked Hayvaert, applicant and owner of the property, if he knew why the property had a small southern corner removed. Hayvaert had no idea exactly why.

Spencer inquired if the cul-de-sac was adequate. Kaltsas stated it was adequate as is; however, 100' wide cul-de-sac is ideal.

Motion by Fisher, seconded by Spencer, to adopt resolution No. 13-0319-03 approving minor subdivision to permit a rural view lot. Ayes: Johnson, Betts, Fisher, and Spencer. Nays: None. Absent: Wenck. MOTION DECLARED CARRIED

10. A PROPOSED TEXT AMENDMENT TO THE CITY OF INDEPENDENCE ORDINANCES AS FOLLOWS:

c. Chapter 5, Section 525 Land Use Districts, Consideration for adding a new land use district, Public/Semi-Public, as guided in the Comprehensive Plan:

Ordinance 2013-06 Amending Chapter 5 Section 525.01 and 530 of the Independence City Code Relating To Land Use Districts.

Kaltsas stated the item was brought to attention with the private golf course Windsong being zoned Public/Semi Public and was reviewed by the Planning Commission.

He stated the Commission felt there should be a placeholder that acknowledged the City has a guided district that relates to the zoning district.

At the initial meeting, last year, three concepts were determined:

1. Waiting and doing nothing, 2. Writing a new ordinance, 3. Creating a placeholder acknowledging the land use category

Kaltsas stated the Planning Commission added discussion at the last meeting and proposed adding language as noted in the staff report. A provision would be added to the ordinance identifying the overlay district, called Public/Recreational Overlay District. He said it would correspond directly the Comprehensive Plan's land use map guided for Public/Semi-Public.

Kaltsas stated there is roughly 3,272 acres in the City identified as Public/Semi-Public. This identification includes City Hall, parks, cemeteries, preserves, and golf courses. He stated language was developed to generally describe the use and not place restrictions on the land's use. He stated essentially it created a new placeholder.

Johnson asked what overlay really means and how affects a property. Kaltsas explained it does not change how it is zoned but rather adds additional standards or gives general guidance. Voss stated it brings a property's zoning into accordance with the guiding of the property as created in the Comprehensive Plan.

Motion by Betts, seconded by Spencer, to amend ordinance 2013-06, text amendment to Chapter 5 Sections 525.01 and 530 relating to land use districts. Ayes: Johnson, Betts, Fisher, and Spencer. Nays: None. Absent: Wenck. MOTION DECLARED CARRIED

11. COUNCILPERSON BRAD SPENCER – RECAP OF THE SUB WATERSHED ASSESSMENT PROJECTS

- b. Appointment of Dan Koch, Director of Public Works to the TAC
- c. Approval of the proposal from Hakanson/Anderson to represent the City of Independence (with the City of Medina) in the TAC, and split the proposed hourly rate between the two Cities
- d. Follow-up from Becky Wozney regarding the TMDL Implementation Targeting Study (memo dated March 14, 2013 – attached)

Spencer explained part of the Pioneer Sarah Creeks Watershed Districts task in their third generation plan was a recommendation to create a Technical Advisory Commission (TAC). These Appointed individuals should have some technical knowledge and be familiar with a city's operations and resources. The TAC's initial responsibility would be to advise Commissioners on various aspects of the third generation plan. There would be a maximum of four meetings not to exceed three hours in length over the next several months.

Spencer stated that Jerry Wise had discussed some of these issues with the Council in the past. He stated Hakanson Anderson, who also represents the City of Medina, has come up with an agreement where the costs of having one technical advisor representative would be split with the City of Medina. He stated the Cities would send a representative from the Public Works Department. Each meeting is not to exceed \$320 in consulting fees and would be split with the City of Medina. In addition Dan Koch, The City of Independence Public Works Director, would also attend these meetings. He stated these people need to be officially appointed to the TAC.

Motion by Spencer, seconded by Betts, appointment of Dan Koch, Director of Public Works to the TAC and approve Hakanson/Anderson to represent the City of Independence (with the City of Medina) in the TAC, and split the proposed hourly rate between the two Cities. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.

The first meeting will be held in April.

Spencer stated the City has been pursuing sub-watershed, stormwater run-off studies addressing responsibilities regarding TMDL. Spencer stated they have discovered some possible grant money for the TMDL Implementation. He suggested scheduling a special work session to discuss this in more detail. Johnson suggested setting this up with Toni Hirsch to help get this scheduled.

12. MISC. /OPEN

Johnson mentioned property taxes were sent out last week and state law prohibits the City from having any influence on agriculture property values. He stated agriculture land values and taxes had a larger increase. Johnson stated he was hoping to meet later this week with state senators and representative regarding taxes and values.

13. ADJOURN.

Motion by Spencer, second by Fisher to adjourn the City Council meeting at 8:55 p.m. Ayes; Mayor Johnson, Councilmembers Betts, Fisher, and Spencer; Nays; none: Absent: Wenck. MOTION DECLARED CARRIED.

Respectfully submitted,

Jolene Nelson, Recording Secretary