

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, FEBRUARY 18, 2020 –6:30 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 6:30 p.m.

2. Pledge of Allegiance

3. ROLL CALL

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

ABSENT: City Attorney Vose

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner

VISITORS: Daryl Jorgenson, Cody Johnson, Mary Jorgensen, Jayne Jorgensen, Ann Slavec, Jason and Kathleen Nelson

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 4, 2020 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 19447-19478 (Check #'s 19445 & 19446 were voided).

Motion by Betts, second by Grotting to approve the Consent Agenda. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. 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

Spencer attended the following meetings:

- City Council Workshop
- Christian Eichers Eagle Scout Ceremony
- Met with Maple Plain Mayor

Grotting attended the following meetings:

- WeCAN Omelet fundraiser
- City Council Workshop
- Met with Extratyme
- Met with Mediacom

McCoy attended the following meetings:

- Met at Cloquet to review Fire District operation
- City Council Workshop

Betts attended the following meetings:

- West Hennepin Chamber of Commerce Meeting
- City Council Workshop
- Drug Task Force Luncheon

Johnson attended the following meetings:

- Met with Jerry Hertaus and WHPS Kroells
- Northwest League of Municipalities
- City Council Workshop
- Orono Healthy Youth Collaboration
- Drug Task Force Luncheon
- Eagle Scout Ceremony for Christian Eichers
- Met several state Commissioners at Minnesota History Center Meeting
- Former Councilmember Vassar funeral

Horner attended the following meetings:

- City Council Workshop
- West Hennepin Chamber of Commerce Board Meeting
- Election Judge Training Classes
- Eagle Scout Ceremony for Christian Eichers
- Public Accuracy Testing

Kaltsas attended the following meetings:

7. **(REQUESTED TO BE CONTINUED TO FEBRUARY 18, 2020)** Vincent Velie III (Applicant) requests that the City consider the following action for the property located at 3315 County Road 92 N, Independence, MN (PID No. 09-118-24-34-0004):
 - a. To consider granting an interim use permit to replace the existing conditional use permit. The new interim use permit would allow a landscape business to operate from the subject property. The interim use permit would add new conditions to the property and the existing conditional use permit would be removed.
- Applicant has requested this to be tabled until a future City Council meeting TBD
8. **(REQUESTED TO BE CONTINUED TO FEBRUARY 18, 2020)** Theresa Marple (Applicant/Owner) requests that the City consider the following action for the property located at 7825 County Road 11, Independence, MN (PID No. 09-118-24-22-0003):
 - a. To consider granting a variance to allow a minor subdivision of property zoned AG-Agriculture that does not meet all applicable requirements. The subdivision proposed would create two approximately 40-acre parcels from the existing 80-acre parcel.

Property/Site Information:

The subject property is located south of County Road 11 and just west of The County Road 11/County Road 92 intersection. The property has an existing conditional use permit (CUP) to allow a guest house Road 92 intersection and an accessory structure larger than 5,000 SF. There are approximately 12 detached accessory buildings located on the property. The property is comprised of tillable acreage and dense wooded areas.

Property Information: 7825 County Road 11

Zoning: AG-Agriculture

Comprehensive Plan: Agriculture

Acreage: 78.70 acres

The applicant recently met with the City to discuss the subdivision of this property. It was noted that the City would allow a minor subdivision of the property which would permit a new parcel to be created with a minimum lot size of 2.5 acres and maximum lot size of 10 acres. The City and the applicant looked at various configurations that would allow for a 10-acre parcel to be split off from the property and incorporate various configurations that would allow for a 10-acre parcel to be split off from the property and incorporate the existing second house and detached accessory structures. The City does not allow the subdivision of property zoned Agriculture with the exception of lot line rearrangements and rural view lot splits. The City would have to consider granting a variance from the accommodate requisite side yard building setbacks for the existing detached accessory structures.

The City has standards for granting a variance which need to be considered prior to making a recommendation relating to the application. The standards established by the City require the applicant to demonstrate that the requested variance does not create a situation that is not in keeping with the character of the surrounding area. In addition, the applicant must demonstrate that the requested variance is unique to the subject property. The standards for granting a variance are as follows:

520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08) Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;
- (c) the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)

Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08) 520.23. Conditions and restrictions. The board of adjustments may recommend, and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough

proportionality to the impact created by the variance. (Amended, Ord. 2011-08)

Consideration of the standards for granting a variance:

- a. The applicants are proposing to split the property so that there is an existing residence on both properties. The use of the property as residential is consistent with the AG Agriculture Zoning District.
- b. The properties created by the subdivision are similar in nature and character to the surrounding properties. There are many existing properties located along County Road 11 that are similar in size and configuration.
- c. The character of the surrounding area is mixed residential/agricultural and guided for long term agriculture. The City's current comprehensive plan guides this area for long term agriculture. The City will need to determine if the proposed subdivision is in keeping with the intent of the City's comprehensive plan.
- d. The requested variance to allow the subdivision of the property must be found to be unique to this property. The property was historically split into two parcels. The presence of two principle structures on the property is generally unique to just a handful of properties in the principle structures on the property is generally unique to just a handful of properties in the City. The significant number and size of detached accessory structures on this property is also unique. The City should note that the property is able to realize a rural view lot subdivision of the property. The rural view lot subdivision would allow a maximum of two 10-acre parcels to be subdivided from the whole. In reviewing the property frontage, lot depth to lot width and location of the two existing residences on the property, the proposed subdivision appears to be a reasonable request. The conditional use permit for the guest house will be revoked as a part of the subdivision and the properties will both be conforming in the after condition.

The City will need to determine if the requested variance to allow the minor subdivision of the property meets the requirements for granting a variance. The proposed subdivision, if approved, would create two properties that meet all other applicable criteria of the City's zoning ordinance. Lot frontage, setbacks and accessory building square footage would all meet requisite standards.

Min. Lot Frontage Required:

300 Lineal Feet

Lot Frontage Proposed:

(Parcel A) - 685 Lineal Feet

(Parcel B) - 625 Lineal Feet

The applicant has provided locations for an alternative septic site on Parcel B. The septic system for Parcel A will need to be inspected upon the sale of the property. The City will require verification of a secondary site on Parcel A. The applicant is showing the requisite drainage and utility easements for both properties are subdivided along County Road 11. The additional right of way easement that has been requested is 17 feet wide. Staff is recommending that the City require the additional 17 feet of right of way requested is 17 feet wide. The additional right of way would be dedicated in the form of an easement along the south side of County Road 11. The additional right of way does not appear to impact the proposed subdivision.

The creation of a new parcel typically requires the payment of a park dedication fee to the City. In this case, the property was historically subdivided prior to the combination of the properties in 2009. Staff researched the initial subdivision of the property and determined that no previous park dedication was paid

currently \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5 acres. The park dedication fee for this subdivision would be approximately \$27,500. Staff is seeking direction the park dedication fee for this subdivision would be approximately \$27,500. Staff is seeking direction from the City relating to the requirement for park dedication for this property.

Neighbor Comments:

The City has not received any comments regarding the proposed subdivision or conditional use permit.

Planning Commissioners reviewed the request for a variance and minor subdivision. Commissioners asked for clarification on the historic use of the property and when the property was initially subdivided. It was noted that the property was subdivided in the mid 1980's to allow for the construction of the house that is located furthest south. Commissioners further discussed that there are two homes on the property and that allowing a subdivision of the property would be a better long-term solution than the existing Conditional Use Permit allowing a guest home. Commissioners discussed the park dedication fees and recommended that the City not require any fees for the proposed subdivision. There was discussion of requiring a minimum amount of park dedication based on the maximum rural view lot split of 10 acres. Planning Commissioners discussed the configuration of the proposed north/south lot line and noted that it was slightly skewed. It should be noted that following Planning Commission review, the applicant has revised the plan to straighten the north/south property line by making one lot 41 acres and the other 37 acres rather than trying to make equal properties. This adjustment would potentially allow for one additional rural view lot subdivision to be realized on the 41-acre parcel. Ultimately, Planning Commissioners recommended approval of the proposed subdivision with conditions and findings.

Recommendation:

Planning Commissioners recommended approval of the requested variance to allow a minor subdivision and with the following findings and conditions:

1. The proposed variance and minor subdivision request meet all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, and Chapter V, Section 500, Subdivisions, in the City of Independence Zoning Ordinance.
2. The City finds that the criteria for granting a variance have been met by the applicant and that the criteria for granting a variance have been met by the applicant and specifically that:
 - a. The requested variance would allow a subdivision to create two parcels that fit into the character of the surrounding property.
 - b. There are two homes located on the subject property and the subdivision of the properties will allow the homes to be located on separate properties in the after condition.
 - c. This property could be subdivided into two lots utilizing the rural view lot subdivision provisions of the zoning ordinance.
3. The Applicant shall provide verification to the City that Parcels A and B have a secondary septic site location.
4. The Applicant shall provide, execute and record the requisite drainage and utility easement the requisite drainage and utility easement within the county within six (6) months of approval.

5. The Applicant shall dedicate 17 feet of right of way to the City along County Road 11. The Applicant shall prepare the requisite easement exhibit and legal description and execute and record the document with the county within six (6) months of approval.
6. Following approval and recording of the minor subdivision, the City will revoke the existing conditional use permit for a guest house on the property.
7. The Applicant shall pay for all costs associated with the City’s review of the requested variance and subdivision.
8. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Betts asked if a park dedication fee has been waived before and Kaltsas said there was not a record he could find where we had waived a fee. Betts asked if that would set a precedent if this one was waived. Johnson noted there were two houses already there so may not need one. Fees are based on the smallest lot. McCoy said he was in favor of waiving the fee because there are two homes.

Motion by Betts, second by McCoy to approve RESOLUTION 20-0218-02 granting a variance to allow a minor subdivision of property zoned AG-Agriculture that does not meet all applicable requirements. The subdivision proposed would create two approximately 40-acre parcels from the existing 80-acre parcel for the property located at 7825 County Road 11, Independence, MN (PID No. 09-118-24-22-0003). Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

9. Consideration of approving plans and specifications and ordering advertisement for bids of the 2020 Bituminous Street Overlay Project.
 - a. **RESOLUTION 20-0218-03** – approving plans and specifications and ordering advertisement for bids.

Kaltsas said the City has determined that certain streets in the City need reconstruction, repair and improvements. The City based its findings on the long-range street improvement plans which assess all streets in the City based on their age, condition, number of users and current condition. In order to better preserve and maintain certain roads, the City’s engineer reviewed detailed plans and specifications for the 2020 Street Overlay Project. The overlay project will provide for an approximately one and half inch bituminous overlay on top of the existing roads included in the project. The project will also include the installation of a gravel shoulder, specific crack repair and the installation of a bituminous apron at certain road intersections. Approximately 6 miles of existing bituminous roads will be included in the project and are identified below:

- Stephanie Way
- Brei Kessel Road
- Merz Way
- Waldemar Way
- Providence Place
- Providence Court, Warren Way
- Providence Curve

- Providence Path
- Turner Road
- Polo Club Road
- Copeland Road
- Lindgren Lane
- Independence Road
- Budd Street
- Fieldstone Place
- Stone Court
- Hillstrom Road
- Drake Court
- Drake Drive
- Painter Creek Green
- Timber Island Trail

City Council is asked to consider approval of RESOLUTION NO. 20-0218-03 approving plans and specifications for the 2020 Street Overlay Project and order advertisement of bids.

Motion by Spencer, second by McCoy to approve RESOLUTION 20-0218-03 – approving plans and specifications and ordering advertisement for bids for the of the 2020 Bituminous Street Overlay Project. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

10. Consideration of the following resolutions calling for a public hearing on the capital improvements plan bonds and street reconstruction bonds.
 - a. **RESOLUTION 20-0218-04** - calling a public hearing on the street reconstruction bonds.
 - b. **RESOLUTION 20-0218-05** - calling a public hearing on the capital improvement plan bonds. Reimbursement Resolution relating to the proposed City Hall and the street reconstruction project.

Kaltsas said the City has determined that certain streets in the City need reconstruction, repair and improvements. The City is authorized by Minnesota Statutes, Section 475.58, subdivision 3b (the “Act”), to prepare a plan for reconstruction or overlay of streets in the City over the next five years, including a description of the affected streets and estimated costs (the “Plan”), and to issue general obligation bonds to finance the cost of street reconstruction activities described in the Plan. Pursuant to the Act, the City is required to hold a public hearing regarding the Plan and issuance of the bonds.

The City now finds that it is necessary to prepare a Plan setting forth proposed street reconstruction projects in the City for the years 2020 through 2024, and to provide for the issuance of general obligation bonds thereunder in an aggregate principal amount not to exceed \$1,400,000 (the “Bonds”), to finance certain costs of the Plan. In addition, the City is authorized by Minnesota Statutes, Section 475.521, as amended (the “Act”) to finance certain capital improvements under an approved five-year capital improvement plan (the “Plan”) by the issuance of general obligation bonds of the City payable from ad valorem taxes. Capital improvements include acquisition or betterment of public lands, buildings or other improvements for the purpose of a city hall, town hall, library, public safety facility and public works facility (excluding light rail transit or any activity related to it, or a park, road, bridge, administrative building other than a city or town hall, or land for any of those facilities).

The City now finds it necessary to prepare a Plan setting forth proposed capital improvements in the City for the years 2020 through 2024 and to provide for the issuance of general obligation bonds thereunder in an aggregate principal amount not to exceed \$2,500,000 (the “Bonds”) to finance certain costs of the Plan, including the costs of renovating, expanding, improving and equipping the City’s existing City Hall, public safety and public works facilities.

Pursuant to the Act, before issuance of bonds under both Plans described above, the City Council is required to hold a public hearing on the Plans and the issuance of such bonds. The City hereby authorizes its staff and consultants to prepare the Plan for street reconstruction projects and capital improvement projects in the City over the five-year period of 2020 to 2024 in accordance with the Act and provide notice of the requisite public hearings. City Council is asked to consider approval of RESOLUTION NO. 20-0218-04 and RESOLUTION NO. 20-0218-05.

Motion by Betts, second by Spencer to approve RESOLUTION 20-0218-04 - calling a public hearing on the street reconstruction bonds. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Motion by Spencer, second by Grotting RESOLUTION 20-0218-05 - calling a public hearing on the capital improvement plan bonds. Reimbursement Resolution relating to the proposed City Hall and the street reconstruction project. Ayes: Johnson, Betts, McCoy, Spencer and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

11. Open/ Misc. (Communications/ Media Update for City)

Grotting asked about additional providers and colocation. Kaltsas said the City allows colocation. Grotting pointed out this additional provider (Extratyme) are interested in providing service to the City which may help the rural residents. Johnson noted some of the State Commissioners and Legislators mentioned possibly providing more money for this kind of service.

12. Adjourn.

Motion by Spencer, second by Grotting to adjourn at 7:19 p.m. Ayes: Johnson, Betts, Grotting, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary