

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, APRIL 7, 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 7:12 p.m. via Zoom video call.

2. Pledge of Allegiance

3. ROLL CALL

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

ABSENT: None

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner, City Attorney Vose

VISITORS: WHPS Chief Kroells, 17 viewing online

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 March 17, 2020 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 19550-19566.
- c. Approval of Twin Cities Polo Club Large Assembly and Gambling Permits for Annual Charity Event to be Held on August 2, 2020. (Kaltsas noted that this event was cancelled today).

Motion by McCoy, 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:

- Zoom training session

Grotting attended the following meetings:

- Phone call with Senator Phillips

McCoy attended the following meetings:

- Zoom training session

Betts attended the following meetings:

- Phone calls with Congressman Phillips and Senators Osmek and Hertaus
- Zoom training session

Johnson attended the following meetings:

- LMCC Cable Commission Video
- Senior Community Service Phone Conference
- Phone call with Senator Osmeck, Representative Hertaus and Congressman Phillips
- Phone interview for Hennepin Healthy Youth Communities
- Conference call with Congresswoman McCallum
- Zoom Meeting for Highway 55 Corridor Coalition Executive Committee
- Zoom training session

Horner attended the following meetings:

- Census training
- Webinar with BKV architects
- Zoom Meeting training

Kaltsas attended the following meetings:

7. **PUBLIC HEARING:** Consideration of an Amendment to City Code Section 915 - Regulation of Lake Independence Surface Use:

Kaltsas said the Lake Independence Citizens Association (LICA) has requested that the City consider amending the Lake Independence Surface Use Ordinance. The amendment would increase the trigger elevation (from 957.8 to 958.2; 4.8 inches) at which point the slow no-wake regulations would become effective. In 2019, surface use of Lake Independence was limited to no-wake for the entirety of the boating season as a result of water levels that exceeded the ordinance established elevations. The City last reviewed the surface use ordinance for Lake Independence in 2014. The previous ordinance had a 250 foot no-wake zone along the shoreline.

Slow no wake levels are set by local governments and can be modified if it's determined that a higher threshold level is needed to trigger slow no wake rules. Both Medina and Independence would have to amend their ordinances for the change to be approved. If approved by both municipalities, an application for an amendment would be made to the DNR for their review and approval.

Historical information relating to the elevations is attached to this report for reference. The information provided in the attached table highlights those readings above the proposed 958.2 elevation. The proposed increase to the trigger elevation would have historically decreased the number of days in which the slow-no wake restriction would be in place. For reference and consideration by the City, Lake Independence water readings for 2019 are shown in the graph below (highlighted area in yellow represents range between existing trigger level and proposed trigger level). There are several additional considerations that should be noted:

- The Ordinary High-Water Level (OHWL) for Lake Independence is 956.8.
- The 100-year flood elevation of Lake Independence is 959.5.
- The City has prepared an aerial graphic of the lake and surrounding properties which identifies those areas that fall between the current trigger level of 957.8 and the proposed trigger level of 958.2 (see attached graphic).

- The City of Medina is holding a public hearing in April to consider the requested ordinance amendment. Groundwater is high across much of MN and this is being shown by the water level of many lakes.
- Minnesota is experiencing the wettest 5-year period in recorded history for the metro area.
- Lake Independence does have an outlet which does regulate water levels. The City has been working with our water resource consultants to evaluate the outlet and identify any issues and or solutions that could increase the outlets function. The results of this evaluation will likely be available within the next two months.

Lake Independence does have an outlet which does regulate water levels. The City has been working with our water resource consultants to evaluate the outlet and identify any issues and or solutions that could increase the outlets function. The results of this evaluation will likely be available within the next two months. The Cities of Medina and Independence have the ability to amend the slow no-wake trigger elevation of Lake Independence. LICA is requesting an amendment to the ordinance which they believe represents a balance between reasonable recreational surface use of the lake and responsible management and mitigation of potential erosion, flooding and similar impacts to the lake shore. The City will need to determine if the proposed increase in trigger elevation provides a reasonable balance. City Council is asked to consider approval of ORDINANCE No. 2020-01 amending City Code Section 915 - Regulation of Lake Independence Surface Use.

- ORDINANCE NO. 2020-01:** A proposed amendment to City Code Section 915 – Regulation of Lake Independence Surface Use. The amendment would increase the trigger elevation (from 957.8 to 958.2) at which point the slow no-wake regulations would become effective.

Johnson asked if there was a specific person in charge of measuring levels. Spencer said there is an official reader, Pat Wolf. Spencer said he has been through this historically with other lakes and this is a process through LICA and other governing bodies. He said Independence’s trigger levels seem low and the lake was under a no-wake order all of last summer. Spencer said the minimal change in level should not have much impact and will put it in line with other area lakes.

Johnson opened the Public Hearing.

Public Hearing Open

Barbara Zadeh, 2314 Independence Road, stated she has lived here for 27 years and is speaking today on behalf of LICA. She said they are dedicated to water use and responsible use by all. She noted restrictions were present for much of 2018 and for all of the 2019 season. Zadeh said the board has spent a lot of time with all governing entities asking for opinions and feedback on best practices going forward for the lake. She noted it was about 50/50 with some wanting to keep the current levels and others wanting it modified so they are able to use boats on the lake. Zadeh said it was determined that the proposed level serves both sides with best outcomes.

Brad Kieley, 5070 South Lakeshore Dr, said he has lived on the lake for 19 years. He said he appreciates all LICA has done for the lake. Kieley presented details on lake levels for the past 10 years. He said this issue is creating a lot of animosity between neighbors which is unfortunate. Kieley said at the current levels the lake will be closed most summers and it is way too restrictive.

John Conlin, Lindgren Lane, said he has lived here for 32 years. He said the lake has turned into a swamp in the summertime due to the water levels and the water is compromised. Conlin said the phosphorous levels are very high. Conlin said there is agriculture run-off and erosion and he watches the deterioration every summer. He said to raise the high water mark would be short-sighted and only serves the boaters. He feels it is completely contracticory to what LICA is supposed to do in protecting the lake. Conlin said it is irresponsible and selfish to change the levels. He said the outflow is a real problem and the lake does not drain as it used to.

Keith and Kelsey Becker, 4914 South Lakeshore Dr., said he and his family have lived on the lake for 5 years. He said he agrees with Kieley's points. Keith said he thought it could be adjusted 250 feet and that would allow for full recreational use and satisfy more parties interests. He said responsible boaters create smaller waves than a typical thunderstorm generates in Minnesota. Kelsey said she echoes Keith's comments and spoke to Conlin's points. She said the visibility the first two years they lived on the lake were great but since then the milfoil is taking over. She wants to support LICA's mission but feels shutting down watercraft actually encourages milfoil growth as the water is not moving and churned up.

Joe Baker, Lake Sarah resident, said he serves as the Chair for the Pioneer Sarah Creek Watershed, which does not have a role in this decision as it is up to the City to determine any action. Baker said they are aligned with Medina and Independence and hopes to not be divided over this topic. Baker said Lake Sarah had very contentious in the past over trigger levels. He said they trending towards getting the external loading under control which will enable more work on internal loading. Baker said the funding arms like the DNR are important to get on board and contentious divides do not help those types of alignment. He feels the proposal is a good compromise.

Conlin said lack of action does not cause more milfoil. Vose said commentary on other comments should not be allowed going forward.

Grotting asked Vose if this format has been challenged because of lack of access due to the online format. Vose noted it is unprecedented and he would offer assurance that all 40 cities he represents have gone to this format. No one has challenged this public hearing format to date. Vose noted both Medina and Independence would have to act together.

Betts asked if the culvert beneath Pagenkopf was going to be replaced. She noted about two years ago it was dredged yet the water level still remains very high. Spencer said there were conversations around this and the City's engineers are conducting a study this spring to see if that would be viable and permissible.

Motion by Grotting to close the Public Hearing, second by McCoy. Ayes: Johnson, Grotting, Betts, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Public Hearing Closed

Spencer echoed Bakers points and said failure to act with Medina means going back to the beginning and starting over. He said the lake is currently above the current no wake trigger level and will probably stay that way until the DNR acts on the proposed amendment. Spencer said any delay on this will jeopardize the boating season for the summer of 2020. Kaltsas said one of the audience members noted that the Medina Council approved the ordinance tonight. Betts said she does not see a reason to change it until the drainage issues are addressed. McCoy said he agrees with Baker and Spencers comments. He likes the idea of putting out bouys to provide more aggressive control of boaters. Johnson said he is personally torn on this issue and remembers the history of this type of issue when it came up on Lake Sarah.

Motion by Spencer, second by Betts to approve ORDINANCE NO. 2020-01: A proposed amendment to City Code Section 915 – Regulation of Lake Independence Surface Use. The amendment would increase the trigger elevation (from 957.8 to 958.2) at which point the slow no-wake regulations would become effective. Ayes: Johnson, Betts, Grotting, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

8. COVID -19 Update.

Kaltsas said the City continues to be open with rotating schedules per the essential orders. This will be for the foreseeable future until otherwise directed per order.

Kroells thanked the residents of Maple Plain and Independence on doing such a great job of social distancing and preventing the spread of COVID-19. He noted the police and fire departments are 24/65. Kroells said that while this meeting was in process a resident came in and donated 195 masks. Johnson asked if there were any cases in Independence, Kroells stated there was only one so far.

Vose said this all very new for Cities and Minnesota have adapted quickly. He noted his firm works through the City Administrator as appropriate. Vose acknowledged this is a new way of doing business. Everyone needs to be able to participate to the full extent. Johnson thanked Vose and acknowledged this meeting would be coordinated through the LMCC as appropriate.

9. Adjourn.

Motion by Spencer, second by McCoy to adjourn at 8:30 p.m. Ayes: Johnson, Betts, Grotting, Spencer and McCoy. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary