

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, MARCH 27, 2012 – 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 Wenck

ABSENT: Councilor Spencer

STAFF: Clerk-Administrator Hirsch, City Engineer Miller, City Planner Kaltsas, City Attorney Vose, Water Resources Engineer Jochum

VISITORS: Larry Stubbs, Mary Roehl, Mario Crespo, Bill Sangster, Rod Johnson, Brad Hayes

4. CONSENT AGENDA.

Approve:

- Approval of Council Minutes for March 13, 2012
- Approval of Resolution No. 12-0327-01 Establishing Sewer Connections for Vinland National Center Not to Exceed Limits Set in the Tri-City Agreement and to work Cooperatively with the Cities of Medina and Greenfield for Future Funding, Connections, and Amendments to the Agreement.

**Motion by Betts, seconded by Wenck, to approve the consent agenda. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

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

Wenck added discussion of a citizen task force.

Mario Crespo requested to be placed on the agenda.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Wenck: Joint State Legislative Conference  
Fisher: None  
Betts: Police Commission Meeting, Board of Review Training  
Johnson: Sensible Land Use, Delano Fire Department Annual Meeting, Greater Lakes County Food Bank Meeting, Water Management Meeting, Orono Healthy Youth Committee Meeting, Purple Heart Presentation for Gale Fuller, Congressional Cities Conference, Small Cities Steering Committee Meeting, Energy Environment and Natural Resources Meeting, Active Living Quarterly Meeting, Police Commission Meeting, Board of Review Training, Mayor’s Summit, Joint State Legislative Conference, Annual Meeting for Community Action Partnership for Suburban Hennepin County  
Hirsch: Minnesota Clerks and Finance Officers Conference, Police Commission Meeting

7. DONNA MAE JOHNSON, REQUEST THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 340 COUNTY ROAD 19 (PID NO. 36-118-24-13-0001):

- An amendment to a previously granted minor subdivision for a rural view lot.
- A variance to permit a reduced rear yard setback. (Resolution No. 12-0327-03 Denying a minor subdivision and variance as requested by Donna Mae Johnson for the property located at 340 County road 19.)

Kaltsas reported the applicant had previously been approved for a lot subdivision of the property but has since reconsidered the layout of the new lot and is requesting an amendment to the subdivision. The proposed new layout would preserve the field access point and follow the drainage swale. An existing barn would impose on the rear yard setback and the applicant is requesting a variance. Upon review at the Planning Commission, the Planning Commission recommended denial of the variance request based on the inability to prove practical difficulties. The Commission felt with the large amount of land, the applicant should be able to create a conforming lot. Kaltsas stated the applicant felt the existing building and proximity to the drainage swale makes a unique situation on the property that requires the variance. Kaltsas reviewed the criteria for approving a variance. Johnson questioned the distance of the barn from the lot line. Kaltsas stated that the corner of the barn would be 11 feet from the rear lot line and the other end of the barn may not meet the 40 feet setback either. Johnson asked for clarification

on the Planning Commission decision. Kaltsas stated that the Planning Commission felt that by not approving the variance, they could not grant the subdivision. Wenck inquired if they could pivot the line around that one corner to increase the setback to 40 feet. Kaltsas replied they could but that would cross over the drainage swale. Rod Johnson stated that they did not want the line to cross the swale because it is a natural boundary.

Fisher inquired about the configuration of the previously approved subdivision. Kaltsas explained the configuration and stated that it did meet all setbacks. Wenck asked if there was public input at the Planning Commission meeting and Kaltsas reported there was not.

Wenck asked for a legal opinion from the City Attorney. Vose stated this is the first application under the new variance rules in terms of practical difficulties versus undue hardship (old standard). The real test for practical difficulties has not changed much and he felt this is a judgment call for the Council. The issue comes down to if the plight of the property is due to circumstances unique to the property and not created by the land owner. Betts stated that setbacks are used to make sure buildings don't get too close to the property line but with the location of the creek it would not be an issue. Vose said it could be a matter of reasonable use and if it is in line with the general purposes of the ordinance. He stated that it does not set a precedent, but the public does expect the Council to apply the code evenly and in a similar fashion.

Rod Johnson, applicant's son, inquired if language could be added to the variance to state that no improvements could be made to the barn. Vose stated that the resolution approving the subdivision would be recorded with the new survey and will record any conditions that are imposed.

Fisher agreed with the Planning Commission's recommendation. He felt there was no hardship. He would like to see the applicant stay with the original subdivision.

Johnson asked the applicant if they had to stay with five acres. Rod Johnson stated there is only one point of egress and they need have to have access to the field. Betts stated that no access to the field would create a hardship. Fisher asked if there is an issue with putting a property line within in a wetland or creek. Johnson suggested going right up to the creek.

Vose stated that since the applicant is amenable to changes, the Council may not want to deny the request. However, there doesn't seem to be something concrete enough for approval at this point. He mentioned the 60 day rule and Kaltsas suggested asking for an extension to the 60 day rule from the applicant and then the item could be tabled. The applicant verbally agreed and Kaltsas stated he would follow up with a signed statement.

**Motion by Betts, seconded by Fisher, to table the item. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

8. BRADLEY HAYES, REQUEST THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 6205 PAGENKOPF ROAD (PID NO. 23-118-24-21-0001):

- Approval of Ordinance 2012-05 Amending the Zoning Code, including Zoning Maps, to rezone the property from Agricultural to Rural Residential
- A minor subdivision to subdivide the subject property into two lots. Resolution No. 12-0327-05.

Kaltsas reported there is a current house and outbuildings on the property and the intent is to create a second lot with access off of Stone Court. The property is zoned Agriculture and guided Rural Residential. Since the Planning Commission meeting, there has been one change. Kaltsas stated that the applicant would like to reconfigure the subdivision line. The applicant would like to have the parcel with existing buildings have just over 5 acres rather than the buildable lot.

Kaltsas reported the zoning would need to be changed to Rural Residential to allow the subdivision and the property is guided for that in the 2030 Comprehensive Plan. He stated the properties meet most of the requirements. However, he stated there are some deficiencies. The existing home on Parcel A does not meet the side yard setback of 30 feet, but does meet all other set back requirements. There are three accessory buildings on the lot that total 3,300 square feet which is greater than what is currently allowed in the zoning ordinance. There is a non-compliant septic system, but the applicant has already submitted a plan for a new system.

Kaltsas stated that Parcel B would be accessed through Stone Court, but does not have adequate frontage. The City can approve a waiver if certain standards are met. In 2003 and 2004, a different applicant applied for a similar subdivision of the property and at that time, the City recommended the applicant construct a continuation of Stone Court or agree to construct the road when development to the west occurs. The previous applicant eventually withdrew their application. He stated the current applicant is willing to grant right of way across the property if requested by the City. The new parcel is also subject to park dedication fees.

Kaltsas reported the Planning Commission reviewed the request and had the discussion of whether it is necessary to extend Stone Court through the property. Kaltsas stated there are possible access points off of Pagenkopf Road and County Road 90 at Old Post Road. However, this may limit the ability to subdivide the property to the west and may also impact the wetland area. Kaltsas stated the Planning Commission did not feel that the continuation of Stone Court was warranted. He stated there were several neighbor comments that did not favor extending the road. The Planning Commission recommended approval of the rezoning and the subdivision with the conditions that the on-site septic system be brought into compliance and the applicant enter into a private driveway agreement relating to the use of the right of way for a private driveway.

**Motion by Wenck, seconded by Fisher, to approve Ordinance 2012-05 to rezone the property from Agriculture to Rural Residential. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

Vose stated that the resolution implies the City is granting a waiver from the road frontage requirement and it appears to meet those conditions to do so.

**Motion by Wenck, seconded by Fisher, to approve Resolution 12-0327-05 approving a minor subdivision as requested by Brad Hayes for the property located at 6205 Pagenkopf Road. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

9. VINLAND NATIONAL CENTER, REQUESTS THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 3675 IHDUHAPI RD. (PID NO. 12-118-24-12-0002):

- An amendment to their existing Conditional Use Permit (CUP) to allow for the connection of the existing facility to City sanitary sewer. Resolution No. 12-0327-06
- An amendment to the 2030 Comprehensive Land Use Plan to revise the Sanitary Sewer Service Areas to include the Vinland National Center. Resolution No. 12-0327-07
- Receive the Feasibility Study for the Vinland Center Sewer

Kaltsas reported Vinland Center had been approved last fall to expand their facility. Staff has been working with the City of Medina to connect to sanitary sewer rather than constructing a new onsite septic system. Staff, City Council, Medina City Council, and Met Council have been meeting to discuss the viability of the connection. In order to allow the connection, the Tri-City agreement with the Cities of Medina and Greenfield must be amended as well as the Comprehensive Plan.

The Met Council's trunk sanitary sewer facility near Maple Plain is near capacity and they will be making improvements to it in 2018. The Metropolitan Council has requested that the City not add any additional sewer connections beyond the 289 it currently has until that time. The City has 184 existing connections, 80 stubbed connections, and 25 floating connections. The Vinland Center would require 20 connections and that would take away some of those available to the rest of the city prior to 2018. After 2018, the City could then add those 20 connections to the total 289 they currently have.

Kaltsas reported the Comprehensive Plan amendment would guide only the property serviced by sewer to a new land use designation of MIC, Medical Institutional Campus. They would not show the remainder of the property as sewered, so that it still show as unsewered agricultural land.

The City Council has already approved the City Engineer to conduct a feasibility study. It would be a public sewer line along Ihduhapi Trail. Kaltsas reported they would also require a Conditional Use Permit to allow Vinland to connect to sanitary sewer.

**Motion by Betts, seconded by Wenck, to approve Resolution No. 12-0324-06 to granting approval of an amendment to the Conditional Use Permit for the Vinland National Center**

located at 3675 Ihduhapi Trail. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.

**Motion by Wenck, seconded by Johnson, to approve Resolution No. 12-0327-07 approving the amendments to the 2030 Comprehensive Plan for the expansion of the MUSA and a change in proposed land use as recommended by the City of Independence Planning Commission and City Council. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

Miller reported on the options to connect Vinland to sewer and possible option to connect the YMCA. He stated that it would be best to use directional boring as open trench would not be an option. He stated the integrity of the roads is questionable and they estimated costs for road restoration. The opinion of cost is \$224,572.50.

Johnson inquired why they used 7% interest rate in the assessment schedule. Miller responded that it is the percentage used in the last project but he expects the financing to come in lower. He stated there is a 10 year and 15 year repayment option.

Wenck asked if they need to have a public hearing. Vose replied that they are doing it as a publicly bid project but Vinland would enter into an assessment waiver agreement which accepts the amount of the assessment and waives the hearings.

**Motion by Wenck, seconded by Fisher, to accept the feasibility study for the estimated cost of providing sanitary sewer service to Vinland National Center. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

10. CRAIG JOCHUM, HAKANSON-ANDERSON, DISCUSSION AND ADOPTION OF THE NEWLY PROPOSED LOCAL WATER PLAN (LWMP). RESOLUTION NO. 12-0327-08

Jochum reported that a copy of the Local Water Management Plan had been presented to both the Planning Commission and City Council for review and comments from both bodies were incorporated into the Plan. The Plan was moved onto the Metropolitan Council, Pioneer-Sarah Creek Watershed District and Minnehaha Creek Watershed District.

Jochum outlined the major changes to the Plan.

Johnson inquired if they could delay the resolution as he would like to read the Plan in depth. He also asked Kaltsas if the Plan requires many ordinance changes. Kaltsas reported there are a few areas that will need to be changed, but there will not be a lot of changes to the Zoning Ordinance. Betts inquired if the Plan clarifies language in regards to NURP ponds and storm collection. Kaltsas stated that he felt it did.

**Motion by Johnson, seconded by Betts, to table approval of the Local Water Management Plan to the May 22, 2012 meeting. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

11. MISC./OPEN

Mario Crespo

Crespo stated that his property is on Lake Sarah Drive on the border of the City of Greenfield and they have an ongoing issue with road maintenance. He stated that Independence does the snow removal on the road and Greenfield takes care of the grading and maintenance. He stated there has been no rock added to the road in many years.

Sangster stated that his driveway was washed away and he had to have the road graded to have the rainwater flow to a different area. He asked for the Council's help in trying to get some rock on the road so that it is similar to other roads within the City. Council asked if there is a written agreement in regards to the road. Council directed staff to pass the message along to the Public Works Director and to the City of Greenfield.

Citizen Task Force

Johnson informed Wenck about the points of concern the Council had come up with in a previous discussion. He stated they were concerned with the amount of staff needed to support the task force and if an official task force is authorized by the city it must adhere to the Open Meeting Law. He stated that it may be better to encourage a private group of residents to meet and come to the Council with their ideas.

Wenck would really like to see a task force between Independence and Maple Plain. He would like to see the task force meet for several months prior to the City Council's budget discussions. Betts asked if his intent was to have individuals work independently on the task force or if city staff is needed. Wenck replied he didn't feel staff would be needed, although the individuals would need access to the budget and work papers.

Fisher asked for clarification on the purpose of the task force. Wenck replied it would be the task force responsibility to look for cost savings and hopefully see other options the Council may not see. Fisher stated it may take some time for the regular citizen to understand and review the City budget. He felt it was the place of the City Council to approach Maple Plain regarding shared services and not that of a task force. Wenck stated that he is not sure if Maple Plain is interested and he would like minimum staff involvement. Betts stated that there is nothing stopping them from meeting with the Maple Plain City Council. Johnson stated that it has been some time since they have discussed the topic.

Wenck stated he had concerns about the future and they need to do better with less people and less time. He doesn't believe they have done that much to date. Fisher felt it is more efficient if the Council is involved from the start. He stated he is in favor of citizen input but has concerns

about the length of time to bring individuals up to speed on the budget process as well as making sure the Open Meeting Law is followed. Johnson stated that he will speak to Mayor Sweeney from Maple Plain. Hirsch stated that she has run some of the Council's comments by members of the Maple Plain Council at a recent meeting and two of them were interested. However, they felt they needed to get the remainder of the Council and office staff to be open to the discussion.

12. ADJOURN

**Motion made by Betts, seconded by Wenck, to adjourn the meeting at 9:14 p.m. Ayes: Johnson, Betts, Fisher, and Wenck. Nays: None. Absent: Spencer. MOTION DECLARED CARRIED.**

Respectfully submitted,

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Kimberly A. Olson, Recording Secretary