

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, SEPTEMBER 25, 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, Spencer, and Wenck.

ABSENT: None

STAFF: Clerk-Administrator Hirsch, City Attorney Vose, City Engineer Miller

VISITORS: Colleen Rosenthal, Jason Johnson, Matt Simmon, Sam Catapano, and Tom Stevens

4. CONSENT AGENDA.

Approve:

- Approval of City Council Minutes from September 11, 2012
- Approval of LMCC (Lake Minnetonka Communications Commission) 2013 Budget
- Acknowledge and Approval of Gerry Grewe's request to withdraw his permit requesting an amendment to a Conditional Use Permit on property located at 1080 County Road 92.
- Approval of Resolution No. 12-0925-04 Vacating the Drainage and Utility Easement Across 4855 Eagle Ridge Road (Dolliff's).

Motion by Wenck, seconded by Spencer, to approve the Consent Agenda as printed. Ayes: Mayor Johnson, Betts, Fisher, Spencer, and Wenck. Nays: None. MOTION DECLARED CARRIED.

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

None

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- Met Council 2040 Listening Session - Plymouth

Wenck attended the following meetings:

- Met Council 2040 Listening Session - Plymouth
- Lake Minnetonka Communications Commission Meeting

Fisher attended the following meetings:

- None

Betts attended the following meetings:

- September 12th, Northwest League of Minnesota Cities Meeting
- SLUC(Sensible Land Use Coalition) Committee Conference

Johnson attended the following meetings:

- Energy and Environment Natural Resources Steering Committee for the National League of Cities in North Little Rock, AR
- Community Action Partnership for Suburban Hennepin County Finance Committee Meeting
- Active Living Workshop in Brooklyn Park
- Municipal Revenue Committee Meeting with Metro Cities
- Local Economies Meeting for the League of Minnesota Cities
- SLUC (Sensible Land Use Coalition) Committee Meeting

Hirsch attended the following meetings:

- SLUC (Sensible Land Use Coalition) Committee Meeting
- Ordinance changes discussion with Becky Wozney and Mark Kaltsas
- Bid opening meeting for the Vinland Center
- Administrator's Conference

7. **RAY MCCOY – DIRECTOR OF THE WEST HENNEPIN PUBLIC SAFETY DEPARTMENT, AUGUST ACTIVITY REPORT:**

McCoy stated August's activity was similar to last year in all categories, but slightly lower in traffic violations. He said there were a few auto crashes, and WHPS worked with near-by Police Departments and Hennepin County Sherriff to solve some of on-going theft and drug issues. He also stated there were some domestic issues they helped to assist.

McCoy stated near-by cities are seeing an uptick in criminal activity; which is why we are keeping an active presence in the city, staying visible.

McCoy stated the Centennial Celebration was a great success, and they were happy with the outcome.

McCoy informed the Council about Citizen's Academy which is starting on October 4th.

8. **BRIAN MILLER, APPROVAL AND DISCUSSION OF RESOLUTION NO. 12-0925-05, BID OPENING FOR THE VINLAND CENTER SANITARY SEWER.**

Miller explained they received a few bids. However, the lowest bid withdrew application due to material error. Second bid being the lowest at \$157,519 is Kusske Construction Company; which is still roughly \$12,000 more than anticipated.

The option at this point would be:

1. Proceed and risk the City baring some of this cost.
2. Standard Assessment to the Vinland Center.
3. Vinland Center agreeing to a potential overage.
4. Request new bids, but price may rise due to seasonal concerns

Miller said the Vinland Center did not have a representative at the Bid Opening.

Johnson asked if reference checks have been completed, and Miller stated they have. Miller said he contacted other cities that have used Kusske Construction Company and they received glowing reviews; which can be a rare find. Miller stated he is looking forward to working with them.

Wenck asked what the error was from the lowest bidder and suggested allowing the company to resubmit their bid. Miller explained the company's bid error was due to a miscalculation of labor charges, roughly \$32,000 shy. He further explained if we seek additional bids it would delay the process and give an unfair advantage.

Vose explained the agreement with Vinland was for them to pay \$144,000 and anything over this the City would pay. He suggested having a discussion with Vinland to re-evaluate these figures now that the City has a better idea of the costs involved.

Motion by Wenck, second by Betts to accept Resolution No. 12-0925-05. Moved the resolution contingent upon the approval of Vinland Center accepting the responsibility on the over bid. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

9. PUBLIC HEARING, KIM HERZOG, 5458 ANDERSON ESTATES ROAD (PID 36-118-24 22-0008) REQUESTS TO VACATE A PORTION OF THE ROADWAY, DRAINAGE AND UTILITY EASEMENT ACROSS HER PROPERTY. RESOLUTION NO. 12-0925-03:

Kaltsas explained the property just sold last week; but the owner had already requested to vacate a portion of the easement. He said the property consists of a single family dwelling unit and an accessory structure. The property is zoned as rural residential and is approximately 6.5 acres.

Kaltsas stated in 1991 the developer dedicated 33' wide roadway, drainage, and utility easement across the subject property and on a neighboring property with it centering on the property line. He said in 1995 the southern property's easement was moved onto the northern property, 5458 Anderson Estates Road, making it a 66' easement. It appears there is no purpose for this large of easement and no utilities run through it. He stated the request would be to reduce it to the 10' standard easement. He said the other three sides have an existing easement 10' easement.

Motion by Wenck, second by Fischer to close the Public Hearing. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

Motion by Betts, second by Fischer to accept Resolution No. 12-0925-03. Approving a vacated portion of roadway, drainage and utility easement. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

10. MATHEW SIMMON AND COLLEEN ROSENTHAL, 415 AND 525 GAME FARM ROAD (PID 33-118-24 14-0002 AND 33-118-24 14-0001)REQUESTING A MINOR SUBDIVISION TO ALLOW FOR A LOT LINE REARRANGEMENT. RESOLUTION NO. 12-0925-01:

Kaltsas stated this is a request for a minor subdivision allowing for a lot line rearrangement. 415 Game Farm Road is zoned agricultural and is .87 Acres and after the change would be 2.57 acres. 525 Game Farm Road is zoned agricultural and is 11.7 acres and in the after condition it would be 10.0 acres. He stated approximately 1.7 acres would be reduced from 525 Game Farm Road and added to 415 Game Farm Road. Both properties have existing buildings.

Kaltsas stated because the City does not allow properties zoned agricultural to be subdivided we are asking for a lot line re-arrangement. He stated adding this acreage to 415 Game Farm Road would bring it into conformance with over 2.5 acres, as well as, meeting the minimum lineal footage along a public right of way. He said also with this larger lot size there is an option of having a secondary septic system.

Kaltsas stated the 525 property would be reduced to 10 acres which is still a conforming size lot, but does have two (2) non-conforming setback structures. There appear to be no adverse effects resulting from the new lot line rearrangement. He stated at the Public Hearing there were no verbal or written comments relating to this. He said the Planning Commission recommended approving, subject to recording and dedicating the drainage and utility easement, recording the subdivision within six (6) months, and paying any fees. Johnson stated the change makes sense.

Motion by Fischer, second by Wenck to accept Resolution No. 12-0925-01. Approving a minor subdivision to allow for a Lot Line Rearrangement. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

11. TWIN CITIES POLO CLUB (TCPC) 6755 TURNER ROAD (PID #'S 27-118-24 42-0006 AND 27-118-24 31-0002) ARE REQUESTING AN AMENDMENT TO THE EXISTING CONDITIONAL USE PERMIT FROM THE CITY ALLOWING FOR A LIMITED NUMBER OF NON-HORSE RELATED SPECIAL EVENTS DURING THE APRIL TO OCTOBER SEASON ON THE PROPERTY. RESOLUTION NO. 12-0925-02.

Kaltsas explained the amendment for the conditional use permit. He said the discussion has been on-going for years and the change is just a formality. He explained the property is approximately 70 acres and zoned agricultural. He stated the Polo Club is asking to host Ultimate Frisbee Tournaments.

Kaltsas stated the initial conditions stated the Polo Club could:

- Hold up to four (4) Tournaments a year for up to three (3) consecutive days
- Tournaments can be held only Friday through Sunday between the hours of 7 a.m. and 9 p.m.
- No more than 750 attendees will be permitted per tournament day.
- Twin City Polo Club must provide a minimum of a two-week written notice to the contiguous property of the upcoming event.

Kaltsas stated in order to amend this; the following criteria need to be met:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.

Kaltsas stated at the Public Hearing in front of the Planning Commission a resident did come forward with some concerns with noise and reducing the window of hours for the events, portable bathrooms facilities, and traffic/lack of signage. He said the Planning Commission's concerns were to have an adequate number of portable bathrooms including the count and location; which is a requirement in the City's large assembly permit. He said the Planning Commission also recommended reducing the playing time from 8 a.m. to 8 p.m. to help mitigate noise concerns. He also said the Commissioners recommended a sign is in place for the tournaments. He said the last thing the Commissioners recommended was when notices for the events are sent out that it includes a contact person or coordinator for the event.

The following conditions shall be added to the conditional use permit:

1. The Twin Cities Polo Club can have up to four (4) Ultimate Frisbee Golf Tournaments during the April-October season in a given calendar year. A tournament can occur for up to three (3) consecutive days.
2. Tournaments can be held only Friday through Sunday between the hours of 7:00 a.m. and 9:00 p.m. Games can only occur between the hours of 8:00 a.m. and 8:00 p.m.
3. No more than 750 attendees will be permitted per tournament day.
4. Twin Cities Polo Club must provide schedules of events for both the Ultimate Frisbee Golf Tournament and their own Polo Game events by May 1, of each year. The written notice shall include the names of a designated contact person and phone number from both the Ultimate Frisbee Golf Tournament's Planner and the Twin Cities Polo Club.
5. The Twin Cities Polo Club shall be required to place directional signage, as previously approved by the City, for each event at the intersections of Turner Road and CSAH 90.

Johnson asked if a representative from the Polo Club attended the Public Hearing. Kaltsas stated they did not attend. Hirsch stated they were aware of the Public Hearing and has regular contact with them.

Hirsch stated signage was not installed this year, as the Polo Club didn't know they could be installed. Betts stated she has seen business signs along Highway 12 and suggested the Polo Club place a sign on the Highway. Kaltsas stated he could contact MNDOT for more information about signage on the Highway.

Motion by Spencer, second by Johnson to accept Resolution No. 12-0925-02. Approving an amendment to the existing conditional use permit allowing for a limited number of non-horse related special events. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

12 DISCUSSION AND APPROVAL OF PROPOSED TEXT AMENDMENTS TO CHAPTER'S 5 AND 7 OF THE CITY OF INDEPENDENCE ORDINANCE RELATING TO STORMWATER MANAGEMENT, STORMWATER UTILITIES AND GRADING, EROSION AND SETTLEMENT CONTROLS AS ARE REQUIRED AFTER HAVING ADOPTED THE NEW LOCAL WATER MANAGEMENT PLAN.

Johnson and the Council members stated they were content with explanation in the Planning Commission minutes. Fisher did ask about the wetland buffer, and Kaltsas explain the new table of standards and buffer widths. He stated it does not change the wetland setback. He said it only affects new buildings not existing.

- A. ORDINANCE NO. 2012-07 – Amending Chapter 5 of the Independence City Code to Include Section 509, a new section adding provisions for Stormwater Management.

Motion by Betts, second by Fisher to accept Ordinance No. 2012-07. Approving the addition of a new section adding provisions for Stormwater Management. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

- B. ORDINANCE NO. 2012-08 – Amending Chapter 5 of the Independence City Code Sections 530.03, Subd. 4 and 530.07, Subd. 2, Relating to Building Setbacks from Wetlands.

Motion by Fisher, second by Betts to accept Ordinance No. 2012-08. Approving the amendment relating to building setbacks from wetlands, Sections 530.03, Subd. 4 and 530.07, Subd 2. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

- C. ORDINANCE NO. 2012-09 – Amending Chapter 5 of the Independence City Code to Include Section 509, a new Section adding provisions for Stormwater Management and to amend Section 508 relating to Erosion and Sediment Control.

Motion by Wenck, second by Spencer to accept Ordinance No. 2012-09. Approving a new Section (Section 509) adding provisions for Stormwater Management and amending Section 508 Erosion and Sediment Control. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

- D. ORDINANCE NO. 2012-10 – Amending Chapter 7 of the Independence City Code to include Section 725, a new Section pertaining to Stormwater Utilities.

Motion by Spencer, second by Johnson to accept Ordinance No. 2012-10. Approving an amendment to include Section 725, pertaining to Stormwater Utilities. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

13. Approval to Cancel the Council meeting set for Tuesday, October 9th and 23rd; and to reschedule them for Tuesday, October 16, 2012 at 7:30 p.m.

Motion by Betts, second by Wenck to approve the cancellation of October 9th and 23rd City Council meeting and reschedule them for Tuesday, October 16, 2012 at 7:30 p.m. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

14. MISC./OPEN

None

15. Adjourn.

Motion by Wenck, second by Spencer to adjourn the City Council meeting at 8:30 p.m. Ayes; Mayor Johnson, Councilmembers Betts, Fisher, Spencer, and Wenck; Nays; None: Absent; None. MOTION DECLARED CARRIED.

Respectfully submitted,

Jolene Nelson, Recording Secretary