

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, NOVEMBER 13, 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 Voss, City Planner Kaltsas,

VISITORS: Eric Evenson, Larry Palm, John Uran, Dean Thurk, David Wojcik, Laverne Vassar, James T Depietro,

4. CONSENT AGENDA.

Approve:

- Approval of City Council Minutes from October 16, 2012.
- Approval of the Accounts Payable for the month of November 2012.
- Approval of the 3rd Quarter Report by ABDO.

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

5. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- None

Wenck attended the following meetings:

- Sensible Land Use Coalition

Fisher attended the following meetings:

- None

Betts attended the following meetings:

- Sensible Land Use Coalition

Johnson attended the following meetings:

- Sensible Land Use Coalition
- Finance Committee Meeting for Senior Community Services
- Senior Community Services Luncheon
- Community Action Partnership for Suburban Hennepin County Board Meeting and Training Session
- Medicare Meeting in Waconia with Bob Stevens, CEO Riverview Hospital
- Collaboration Meeting for Hennepin County Community Ed Financing
- Heroine Meeting in Mound
- Election Judge at City Hall
- Community Action Partnership for Suburban Hennepin County Board Finance Meeting
- Chamber of Commerce Meeting
- Former Senator George Pilsbury, Memorial Service
- Former Mayor of St. Louis Park, Lyle Hanks visitation

Hirsch attended the following meetings:

- Senior Community Services Luncheon
- Sensible Land Use Coalition
- LMC Insurance Group to Evaluate the City Buildings Value
- Met with Two Different Possible Buyers of the Drillco Property
- Cleaning Services Company for an Annual Meeting and Update
- Worked with Kristi of ABDO for 3rd Quarter Reports
- Vinland Center to Assist in Clients Absentee Voting
- Election Judging and Monitoring at City Hall
- Met with Bill Singer with of AT Group for 2013 Health Insurance Benefits

Hirsch discussed details about the Thanksgiving Dinner served in the Community Room - How it started, attendance, and reservations.

Voss discussed the Lake Minnetonka Communications Commission, the negotiations, and discussions regarding advancement of the service area. He stated they are actively working to expand the service.

6. Eric Evenson, Minnehaha Creek Watershed – Visit and update of what’s happening in that watershed.

Evenson introduced himself, and stated his role with Minnehaha Creek Watershed. He stated they are striving to create better communication within the communities of the District.

Evenson discussed an established one year plan on how to deal with aquatic invasive species. The Watershed Board decided to continue to work with lake associations, sportsman’s groups, and work on education and research programs. They decided to incentivize private sector groups and create training programs. He stated the District is working on restoration projects: partnering with private sector developers, open spaces, and redevelopment.

Evenson stated they are looking at partnering opportunities within the communities. He also stated they have been in discussions and working with the Pioneer Lake Sarah Watershed District and the Lake Sarah Association. They are also working closely with the MN Pollution Control Agency regarding impaired waters.

Evenson mentioned that in March The Minnehaha Creek Watershed District will be moving to a newly purchased property in the same area.

Johnson stated this Watershed District really only effects a small percentage of the City, on the South-side, but it is very important.

7. Larry Palm – Discussion on reimbursement request of the City and future follow up regarding the Urban Commercial property located to the west of the City, prior to the Delano/Independence County Line Road.

Palm explained his situation, where his land was located, and that he never reported himself as a developer. He stated the questions and conversations he had were asked for the prospective buyer's developer. He stated he had no knowledge of an agreement and was surprised by the bill. Hirsch stated a complete set of documents had been sent to Palm.

Palm stated he and his partner are willing to pay the bill as a donation once the land is sold.

Johnson asked Kaltsas how much knowledge he had dealing with Target's discussion when they were looking to this land. Kaltsas stated he had just starting working with this at the end of the deal. Hirsch stated Target paid for time spent working with the City.

Spencer asked Palm what exactly is his role in this venture, owner or developer. Palm stated he and his partner have been quite clear they are only the owner of the property and not the developer.

Palm stated Opus was the developer for Wal-Mart. He stated he was under contract with Opus, and with Target he was under contract with the Ryan Group.

Johnson asked if Wal-Mart had any discussions with the City. Hirsch stated the City had conversations starting July 21st, 2011 which included: Eric Miller of MFRA (Wal-Mart's representative), Mike Simms of Mid-America Real Estate, Brian Miller (City Engineer), Mark Kaltsas (City Planner) and herself. On-going conversations were documented.

Betts asked about the first negotiations with Target and Palm's knowledge of their bills. Palm stated he had no knowledge of the bills, just that they were still negotiating the details. Betts asked why this deal was different. Hirsch stated she worked specifically with a developer for Target but this was not the case for Wal-Mart.

Spencer questioned why we would work without a development agreement and stressed the council should deny working with anyone without an agreement.

Palm stated he was very specific when it comes to questions. He didn't get into details with long discussions. He stated he's just asking the questions the developer is bringing to him as the landowner.

Betts replied it sounds like they are using you as a means to negotiate and get answers without paying anything.

Voss stated he had little contact with this deal, but development fees come from a signed agreement or contract.

Hirsch stated she followed the same procedure for Target and had no reason to believe this should be any different.

Betts and Johnson both stated this fee should not be picked up by the tax payer. Hirsch stated this was not our intention as this deal would have benefitted the community. She stated from here on out an agreement must be signed including an application fee and an escrow amount to move forward.

Palm stated there are other buyers who are also interested in the property.

Wenck stated the outstanding fee should then be paid upon the sale of the property, as owner agreed to do. Voss agreed this may be the best alternative as the owner stated he doesn't have the funds, and it may be difficult to legally pursue. He said an agreement addressing this going forward would be appropriate.

Motion by Wenck, second by Betts to allow Larry Palm to pay outstanding development fees once his property is sold and to enter into an agreement from here on out for any other development discussions. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

James T Depietro, Real Estate Broker, stated another big box store is interested in this site however there are some engineering issues they would need to get resolved. He stated if the Council had a welcome letter of support stating they are willing to work with a company.

Johnson and Wenck both agreed a welcoming letter would be a good idea.

Motion by Wenck, second by Johnson to create a welcome letter showing the support of the Council for new development within the community. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

8. Marge Lemke, Northwest Tonka Lions – Approval of Transfer of Pull-tab gambling from Westonka Jaycees to the Northwest Tonka Lions. Resolution No. 12-1113-01.

Johnson asked about the location of the Northwest Tonka Lions. Hirsch stated it is in Mound and discussed their concern regarding re-imbusement consistency. She stated the Northwest Tonka Lions are known to be more consistant. She also stated the City is a recipient of their funds.

Motion by Spencer, second by Wenck to approve the transfer of the Pull-tab gambling from Westonka Jaycees to the Northwest Tonka Lions . Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

9. John Uran, owner of property located at 8790 U.S. Highway 12 (PID# 08-118-24 33-0003) and Dean Thurk perspective owner – requesting guidance from the Council to either Rezone the property to Commercial/Light Industrial or do a Text Amendment to allow for auto body repair as a Conditional Use Permit in the Agricultural zoning district.

Kaltsas explained the staff met with a prospective buyer/business owner whom is interested in purchasing the property and using it as an auto body repair shop; however that use is not allowed on the property as it is zoned agricultural. There is currently a conditional use permit on the property; which allowed a well drilling business. He stated rather than adding or changing a conditional use permit the City thought it may make more sense to re-zone the property.

Kaltsas stated he was asking for direction from the council. He stated the City could do a text amendment ordinance to allow additional conditional use or re-zone given it's commercial nature. Kaltsas stated there is no primary residence building on the property. Based upon the current provisions in the ordinance and the existing condition of the property, the following permitted and conditional uses could be considered:

Permitted: Residential, Agricultural, and Forestry

Conditional Uses: Well-drilling Shop/Office, Farrieries, Kennels, Churches, Cemeteries, Essential Services, and Telecommunication Towers

Betts asked about traffic concerns and turn lanes on Highway 12. Kaltsas stated there is no turn lane. Uran stated there is a by-pass lane allowing traffic to get around.

Johnson stated it is more an issue of zoning for him.

Spencer asked about the process of amending a comp plan. He said he was uncomfortable allowing an auto body repair in any agriculturally zoned lots.

Betts stated there isn't a whole lot that could be done with this property considering its location and size.

Spencer asked about expenses involved in making these changes.

Kaltsas stated the applicant would need to complete the comp plan application amendment and the re-zone application.

Johnson stated he does not want to re-zone the entire area along Highway 12 especially because of safety concerns.

Voss stated spot zoning is allowing the change of the use of the property. This would not be changing the use of the property. Both Voss and Kaltsas stated they felt Met Council would likely view it as a minor amendment.

Spencer stated he would rather see this as a re-zoning item rather than a conditional use.

Uran stated the last 40 years it's been used as a commercial lot. He stated the lot has been for sale for the last 2 months and he's been receiving 2 to 6 calls per day asking about it from commercial buyers. There have never been any prospective buyers interested in building a home on the lot.

Johnson verified with Kaltsas if he had enough information and he stated he did. Kaltsas stated we would look into the re-zoning option based upon the Council's opinion.

10. (E-mail) Jeff Leuer, Loretto Fire Department - Letter of Support requesting the Implementation Facilitation Scope of Work.

The Councilors were trying to clarify what the City of Loretto was asking for and came to the conclusion that the City was applying for a grant; in which they would support but wanted to be sure Loretto wasn't asking for any more money at this time.

Motion by Spencer, second by Wenck to support application of a grant for the Loretto Fire Department. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

11. Meeting date change from Tuesday, December 25, 2012 (Christmas Eve) to Tuesday, December 18, 2012.

Motion by Wenck, second by Spencer to change the Council meeting date from December 25th, 2012 to December 18th, 2012, if needed. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.

12. MISC./OPEN

Laverne Vassar, 3285 Lake Haughey Rd, (PID # 08-118-24-33-0004), asked the Council what they were going to do about the public nuisance by his home. He stated there were 17 cars in the lot one morning and 14 cars on County Road 92. He continued to state there is too much traffic on that road, and it used to be a nice peaceful place to live but now it's not due to the hunting grounds.

Johnson explained the City never owned the lot across from his home, and it was donated as hunting grounds. So, the City doesn't have much to do with it.

Vassar was upset the City didn't ask for the property when it was donated.

Vassar stated he did get a letter from the City directing him to contact the DNR; however, he said they were no help. He was upset there was information about hunting on the land was on the internet and the ghetto was coming out to hunt on the property. He stated he wanted the City to adopt an ordinance that would only allow hunting with a permit to hunt on your own land. Vassar stated theft has increased and the due to the lack of bathroom facilities people are defecating on the lot. He stated he only wants residents from the City of Independence to use the lot.

Voss stated they couldn't adopt an ordinance like that due to State laws.

Johnson asked if there had been an increase in hunters, and Vassar stated there was.

The Council agreed they could contact the DNR about public safety concerns limiting the number of hunters allowed on the lot.

13. Adjourn.

Motion by Wenck, second by Spencer to adjourn the City Council meeting at 8:50 p.m. Ayes; Mayor Johnson, Councilmembers Betts, Fisher, Spencer, and Wenck; Nays; None: Absent; None.MOTION DECLARED CARRIED.

Respectfully submitted,

Jolene Nelson, Recording Secretary