

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, NOVEMBER 29, 2011 – 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 and Councilmembers Betts, Spencer, and Wallace

ABSENT: Wenck

STAFF: Clerk-Administrator Hirsch, City Planner Kaltsas, City Attorney Vose

VISITS: Dan Beck and his four children, LuAnn Brenno, Kathy Plouth, John Zeglin, Mike Zeglin

4. CONSENT AGENDA.

Approve:

- Approval of Council Minutes for November 15, 2011 and Canvassing Board Minutes of November 15, 2011
- Approval of request for reinstatement into the Agricultural Preserves for Susan and Doug Heyvaert, 7645 Turner Road (PID# 28-118-24 31-0002)
- Approval of Resolution No. 11-1129-01, Amending Resolution No. 09-0512-02 adopting a Budget Reserve Policy per GASB 54.

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

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

Johnson added clarification to the Lindgren Lane/Independence Rd sewer availability fee.

Spencer added moving city elections to even years.

Betts added discussion on snowmobile trails.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer: League of MN Cities Regional Meeting  
Wallace: None  
Betts: Police Commission Meeting  
Johnson: Senior Community Services Board Meeting, Senior Community Services Luncheon, Police Commission Meeting, Special Executive Committee Meeting of the Greater Lakes Food Bank, Hennepin County Tax Hearin  
Hirsch: League of MN Cities Trust, Meeting with Randy's Environmental Services regarding recycling changes, Police Commission Meeting

7. TIF (TAX INCREMENT FINANCING)-

- Motion to approve letter of support regarding the proposed West End Retail Development
- Approval of Resolution No, 11-1129-02 approving a Preliminary Agreement regarding West End Retail Development
- Approval of Resolution No. 11-1129-03 calling for a public hearing on the proposed establishment of Development District No. 1, adoption of a Developer Program therefore, proposed establishment of TIF District No. 1-1 and adoption of a Tax Increment Plan therefore related to the proposed West End Retail Development.

Johnson stated that since the time the agenda was compiled, there have been a lot of changes.

Hirsch reported that she had been notified that the big box store had walked away from the project so there is no need to go any further with the TIF discussion.

LuAnn Brenno, 7676 Turner Rd, commented that she knows they have to look at commercial development but she was concerned about the special meeting was called to discuss the possible TIF district. She wondered if there some way to publicize the notice more. Hirsch stated the notice was posted properly within the building.

Brenno asked Planner Kaltsas to explain what the implications of a TIF district are. She is concerned that if another development is proposed, Council will consider TIF again and she wants residents to be aware of the implications. Johnson suggested that Hirsch provide Brenno all the materials provided to the Council.

Brenno felt that it was very disconcerting to hear about these types of things from the newspaper.

Hirsch will forward the materials to Brenno.

8. A PROPOSED TEXT AMENDMENT TO THE CITY OF INDEPENDENCE ZONING ORDINANCE PERTAINING TO SECTION 515.07, NON-CONFORMING USES. ORDINANCE NO. 2011-07

Kaltsas reported this item was reviewed several times by the Planning Commission. He stated that the ordinance was not in line with the provisions of the state. The resolution is to have the city's ordinance

conform to state statute. The main difference is the city ordinance states a non-conforming use may be continued for normal maintenance and necessary non-structural repairs and incidental alterations that do not extend or intensify the non-conforming use. The state statute allowed a more open interpretation and does allow for expansion. The Planning Commission also discussed whether it should be allowed by the code or by variance and their recommendation was by variance.

**Motion by Spencer, seconded by Johnson, to adopt Ordinance No. 2011-07 amending the zoning ordinance pertaining to Section 515.07. Ayes: Betts, Johnson, Spencer and Wallace. Nays: None. Absent: Wenck. MOTION DECLARED CARRIED.**

9. OPEN/MISC.

Clarification of the Sewer Availability Charge for Lindgren Lane/Independence Rd.

Johnson stated Council made a motion last year to postpone sewer availability charges on Lindgren Lane/Independence Rd until October 1<sup>st</sup> of 2011, including those who have pulled a sewer connection permit but not yet installed the connection. He stated the problem is that billing occurs in July.

Hirsch stated that the first billing would be July 1, 2012.

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

**Motion by Spencer, seconded by Betts, to waive the sewer availability charge for the Lindgren Lane/Independence Rd residents until July1, 2012. Ayes: Betts, Johnson, Spencer, and Wallace. Nays: None. Absent: Wenck. MOTION DECLARED CARRIED.**

Snowmobile Trails

Betts said she had concerns about who approves two-way riding on one side of the road. Vose replied the statute is clear in the respect that cities have authority to adopt regulations on snowmobile riding in the city. The city does have an ordinance about not riding too fast, under the influence, and such. The city can prohibit snowmobiling out right if that is Council's decision, but that is not what the city has chosen to do in the past. Vose stated there is a provision in the statute that says two way riding on one side of the street right of way is not allowed on trunk highways, county state aid highways and county roads. It does not apply to city streets. The provision of two way riding on one side can be reversed on state highways by the state transportation commissioner. It also states that local road authorities have the authority to do the same on local streets. Vose stated that he does not believe there is a statutory prohibition of two way riding on city streets.

Betts asked how large the right of way is for county roads. Johnson stated that it is going to vary because some are 100 feet and some are 66 feet. Staff clarified the right of way on city streets is 66 feet.

Betts asked how they can ensure safe riding. Can the city be sued if there are obstacles in the right of way? Vose replied that they could not be successfully sued if they did not prohibit two way riding.

Betts stated the Parks Commission had designated one side of Pagenkopf Rd as a pedestrian trail and bicycle path. It was written that no motorized vehicles would be allowed on the path. Must they change

the wording? There is no language about seasonal use of motorized vehicles. Vose stated the Park Plan is part of the Comprehensive Plan and does not establish regulations like snowmobiling on trails.

Betts stated that if the snowmobile trail becomes permanent, it could become an issue down the line as development happens over time.

Betts said her concern is with safety and felt snowmobiles should use both sides of the road or the side without obstacles. Wallace felt that two way riding is a non issue and felt that in his experience of snowmobiling, two way riding is pretty safe.

Hirsch stated at the next meeting on Dec. 13, 2011, the local representative of the DNR will be present as well as Steve Hohag from the Northwest Trail Association and a representative from another local snowmobile club.

#### City Elections

Spencer stated there has been discussion in the past to move the local elections to even years to coincide with other elections and to help save costs. If we were to decide to do so, we would have to have staff do an ordinance or whatever is necessary by the first meeting in December. He stated that he is in support of changing to the even years.

Wallace asked what other reasons there would be to change the timing of the elections. Johnson and Wallace stated they did not agree with idea of moving the elections to even years. Wallace felt it is a small investment for a larger democracy. He felt city elections are lost in presidential and gubernatorial elections and residents are not as well informed about city issues and offices. Spencer felt that there was more turnout at the even years. Betts was not sure if voters are any better informed at the odd years.

Johnson stated that voters appreciated coming to their city poll and being able to also vote for their school district rather than going out of the city to the school district's polling location in odd years.

Spencer did not agree and felt that many voters don't even know there is an election happening in the odd years. He felt there is no need to spend money on odd year elections.

**Motion by Spencer, seconded by Betts, to move the local city elections to the even years. Ayes: Betts and Spencer. Nays: Johnson and Wallace. Absent: Wenck. MOTION FAILED.**

#### 10. ADJOURN

**Motion made by Betts, seconded by Spencer, to adjourn the meeting at 8:08 p.m. Ayes: Betts, Johnson, Spencer, and Wallace. Nays: None. Absent: Wenck. MOTION DECLARED CARRIED.**

Respectfully submitted,

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Kimberly A. Olson, Recording Secretary