

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JANUARY 23, 2007, 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 Marvin 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, Council Members Fisher, Betts, Strong, Gyllenblad.

STAFF: Clerk-Administrator Hirsch, Attorney Vose, Public Works Director Koch, Planner Gozola, Building Inspector Satek.

VISITORS: Lisa and Carl Phillips, Bill Coffman, Chuck Alcon, Randy Johnson, Chad Johnson, John Geelan, Marge Klaers, Carole Peter, John Barten, Kevin Ward, Kathie and Ed Pluth, Elizabeth Rich, Judy Gunderson with the Delano Eagle, Joe and Ann Christine Slavec, City Planner Tom Goodrum, Eleanor Kalash, LuAnn Brenno, David Cox, Maple Plain Mayor John Sweeney, Cynthia and Steve Erickson, Harry Pool.

4. CONSENT AGENDA. APPROVE:

- January 9, 2007 Council Minutes.
- 12/31/06 Financial Report.
- Payment Request No. 2, Lift Station No. 5, Rehabilitation and Wastewater Meter Construction.

Gyllenblad asked that the minutes be changed to reflect that he voted against Resolution No. 07-0109-02. Betts noted that the vote was not complete on the bottom of page 2.

Motion by Strong, second by Gyllenblad to approve the Consent Agenda with the changes in the minutes. All present voted aye. MOTION CARRIED.

5. SET AGENDA - ANYONE NOT ON AGENDA MAY BE PLACED UNDER OPEN/MISCELLANEOUS.

There were no additions.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF.

Gyllenblad: Parks, Trails, Open Space Open House, Board of Review training session at Medina Government Center, Delano Faculty Advisory Committee. Called Attorney General re. Police Commission statutes.

Strong: Northwest League, Police Commission.

Betts: Chamber of Commerce, Parks Commission, Fire Department meeting with City of Maple Plain.

Mayor: LMC orientation for new Board member, represented LMC at Greater MN Association of Cities meeting and, MN School Board leadership conference, Senior Community Services annual meeting, Three Rivers Parks 50th anniversary celebration, Parks, Trails, Open Space open house, LMC Board meeting, Hennepin Co. Extension Master Gardeners 30 year anniversary, CAPSH Executive and Finance Committee meetings, Police Commission, met with School Dist. 287 re. Juvenile delinquents, met with Maple Plain mayor for a staff evaluation, and Maple Plain Fire Department meeting.

Clerk-Adm. Hirsch: Parks, Trails, Open Space open house, met with Ehlers, met with two residents to review equestrian trail maintenance matters, met with Bob Pfefferle from Boonestroo Associates, staff from Abdo Associates here this week to help prepare for the audit. Attended TMDL meeting for Lake Independence.

7. PUBLIC SAFETY DIRECTOR RAY MCCOY:

- Presentation of "Saved by the Belt" Award. There was a serious accident on Highway 12 and County Road 92, and because all were wearing seat belts in the vehicle that was hit, they walked away from the accident. Four people were presented with awards for choosing to wear their seat belts.
- November and December 2006 Activity Report. Chief McCoy briefly reviewed the report with council members.
- Residents at Large on Police Commission discussion. Mayor Johnson stated that one person at the Truth in Taxation hearing had asked about the possibility of having two residents at large on the Commission. Council Member Gyllenblad asked that it be put on the agenda. Mayor Johnson stated that he felt council members are elected to represent the general public and have done so on the Police Commission. Any changes we would make would have to be agreed to by the City of Maple Plain, since we have a Joint Powers Agreement. Council Member Gyllenblad cited Section 419.01 from the State Statutes which talks about citizens on police commissions. Chief McCoy stated that the Joint Powers Agreement would hold precedence with our police commission. Our Police Commission operates with both mayors and 2 council members from each city. Strong and Betts stated their confidence in the police commission the way it is structured today. Strong stated that if the police commission is not doing what it is supposed to do, he would like to see that in writing. Gyllenblad thought bringing citizens on board would do a great deal to reduce the animosity that some feel about the department. He stated that Ray is doing a great job, but he questions having 10 full-time officers when the national norm is 1 officer per 1000 residents. Police Commission meetings are always open to the public.

Motion by Gyllenblad to appoint two residents at large from each city to serve on the Police Commission in the same capacity as council members and mayors. Motion failed for lack of a second.

- Discussion - No Parking on Shady Beach Circle. Public Works Director Koch and Chief McCoy viewed this lot. There were some vehicles parked on the lot with trailers, which they thought were being used for ice fishing. McCoy's main concern was that vehicles were not blocking access for emergency vehicles. The road was open, so there would be no problem getting fire or other emergency vehicles in. He checked to see if there had been any other parking complaints, and there had not. He and Koch did not see an immediate necessity for placing No Parking signs. However, they recommended that if Council decides to post No Parking signs, they should be for the entire street so there is no confusion for people. Mayor Johnson had received a call from a resident who was opposed to having No Parking signs. Council members concurred that they would prefer having a public hearing if they are going to consider No Parking signs. The property owner, Randall Johnson, was present. He plans to build on the lot next door. He wants to have a public hearing before any signs are put up. (He would prefer no signs.) Public Works and the police department will monitor the situation and report back in March. If a public hearing is held all neighbors will be notified.

8. Lisa Whalen and Carole Peter, Pioneer-Sarah Creek Watershed Management Commission. TMDL Implementation Update for Lake Independence.

Lisa Whalen, as Chair of the Pioneer-Sarah Creek Watershed, reported that they have been awarded \$400,000 in grant funds. John Barten, with Three Rivers Parks, helped to put the report together, as well as Carole Peter, the city's resident representative. There was a public comment period. Mandatory requirements would only be put in place if voluntary compliance is not accomplished. The document is being reviewed by the EPA. The city would be required to meet the phosphorous reductions once the plan is approved.

Mayor Johnson asked how the grant money would be spent. Whalen stated that the money has been earmarked for several things, one of them being nutrient reduction, such as rain gardens and shoreline restoration. But first they want to concentrate on crop land and nutrient reduction. Mayor Johnson stated there is a large farm that someone would like to develop on the west side of Lake Independence, and if we

could get permission from Met Council to serve those lots with the MUSA line, it would likely have an immediate positive impact on the lake.

Whalen stressed that everyone has helped create the phosphorous problem in Lake Independence and now we are asking everyone to help clean it up. Council Member Gyllenblad asked why both species of phosphorus had not been looked at. Barten stated that it had been, but many scientists agree that the total loading is the most important factor. Gyllenblad thinks the buffer zones should be much wider than the study is showing. He asked where the 33 feed lots are that are listed in the report.

Whalen stated no action is necessary tonight. She asked everyone to read the report so they are aware of all the players in this, and we all want to work together to clean up Lake Independence. This will probably be part of the 2008 comprehensive plan.

9. PUBLIC WORKS DIRECTOR DAN KOCH - AMENDMENT OF THE TRI-CITIES AGREEMENT.

Dan Koch stated that the city attorney and city engineer have reviewed this, as well as the Cities of Medina and Greenfield. If there are any changes or comments he would like to hear them tonight. There was a little discussion about various portions of the agreement. Council will look at this one final time in February before approving it.

10. APPROVE AMENDMENT TO ORDINANCE NO. 2001-02, SECTION 705 INDIVIDUAL SEWAGE TREATMENT SYSTEMS.

Ben Gozola reviewed the suggested changes to the ordinance for council members. The first problem Staff identified was the time period to replace a non-compliant failing system. He stated that many communities consider 3 years adequate time to take care of a failing system. Staff has recommended upgrading or replacing such a system within a 3-year time period with the removal of the provision to use the system indefinitely with regular pumping and inspections.

Secondly, the city does not currently require hook ups to the existing city sewer line. The system was built with the express intent to relieve the sensitive shoreline areas of individual systems. On-going maintenance costs are not covered completely by current fees because there aren't enough participants to cover the costs. Staff is recommending that the city require properties with access to the municipal sewer system hook up within a specified time. Most cities use 3 months to a year. Another option would be if someone applies for a new septic permit the city would deny the request and require the applicant to hook up to the city sewer. Or the city could link the hook up deadline to 5 year certificates of compliance. Staff recommends the twelve-month hookup upon notification from the city.

Planning Commission recommended that Council maintain a property owner's right to maintain a system indefinitely when it is not an imminent health threat, as long as it is pumped and inspected every 3 years for 5 years (rather than 10 years.) Planning Commission also recommended that the hook up requirements to city sewer only apply to the shore land areas. Gozola stated that if the city's only concerns are environmental concerns then it would make sense to place this requirement on shore land property only. But maintenance costs should be covered in all areas, and the only way it is affordable is to have all residents with sewer available share the cost.

Mayor Johnson asked how many houses have not hooked up yet. Hirsch answered there are 28. These residents are paying a user availability fee of \$100 per year. Connection fees vary with the distance a house is from the sewer line. Attorney Vose stated that Council should define "available." For instance, there may be a house sitting 1000 yards back from the sewer line in the street - would you say that it is available in this case? Probably not. Presently the definition could be anyone who is on the line, and has paid the assessment. But that definition might not work in the future. For instance, you might extend a line for a development, and the developer would be responsible for the assessment costs. You would want a time frame for those eligible to hook up.

Mayor Johnson is afraid we might force elderly people living on a fixed income to hook up. Attorney Vose cited another city that recently wrestled with these same questions, and that city decided to require hookups when any substantial work was required on a septic system. Hirsch stated that there are funds available from the county for elderly people in this situation. Mayor Johnson agreed, and stated that some funds are available with minimal requirements.

There was some discussion about the fact that the system was put in 14 years ago and the maintenance costs are not being covered. Council members were hesitant to set a deadline. They liked portions of the Planning Commission's approach.

Motion by Fisher, second by Strong to proceed with the mandatory hookups with the suggested changes.

Motion by Fisher, second by Strong to table this item until the February 13 meeting so Staff can incorporate the suggested changes in the revised ordinance. All present voted aye. MOTION CARRIED.

11. CHUCK ALCON OF ALCON ASSOCIATES LLC, SKETCH PLAN REVIEW.

Mayor Johnson stated that the only thing Council would be looking at tonight is the zoning issue. Jim Franklin, whose property is the subject of discussion, stated that he is in a unique position because he has 3 parcels of land: one is zoned Rural Residential, one is zoned Agricultural, and the other one is zoned both Agricultural and Rural Residential.

Mr. Franklin has done some research on developing his land in a cluster-type development that would leave a large amount of open space, privately owned. The plan calls for a shared septic system that he thinks could be directly fed to city sewer if and when it becomes available. He would like to hear if this plan is of interest to the Council. Does it deserve more time and energy?

Chuck Alcon noted that the way the property is zoned today it can only be developed incrementally. He showed what a 24-lot development might look like. He also showed a plan with 30 lots clustered with about 63% of the land left in open space. He stated that the 30-lot design is what they would prefer to work on, and asked for Council comments and suggestions.

Mayor Johnson stated that he likes the concept plan, but the comprehensive plan will be updated for 2008 and if we are going to add more rural residential area, this might be a good idea to include at that time. When the last change was made to the zoning code the city included a strip of land about 1/4 mile west of County Road 90 in the Rural Residential zone. Since so many of the properties extend farther west it might make sense to expand that zone further west so we don't end up with so many farms in both zones.

If the applicant wants to rezone, the request would first be heard by the Planning Commission, then the Council; and we would have to ask Met Council's approval of a comp plan amendment if we wanted to grant the request. Betts noted that she would like to have a traffic study done showing how roads would be impacted by such a development. Mayor Johnson thinks this sketch plan looks good - he likes the open space and the shared septic system. But he thinks the request is coming a year early. Mr. Alcon stated that there is a lot of engineering involved with a development like this, and if they were to start now, we wouldn't be seeing any grading or building until the fall of 2008 or later. Gyllenblad referred to the exception that was made for the Tamarack on Lake Sarah development, and thinks this exception makes sense.

A resident stated that she has some serious concerns about this process. While these concept plans have come to the council before she has never seen one that requires a rezoning. She thinks rezoning affects citizens the most and all of these requests should go to Planning Commission first with official public notice. She does not think this is the appropriate forum to be discussing this. She asked the council to turn this request down and not to hear further requests of this type.

Council Member Strong thought this particular item should be discussed as part of the comprehensive plan discussions; but in response to the residents comment, he also believes in an open door policy with the

residents to be able to appear before the Council if they like with any questions, thoughts or ideas like this to run by them. Not allowing residents to see Council when they want is not a good policy or practice. Mr. Franklin disagreed with the residents' comments stating that this is what the Council is here for and that an open forum is the perfect place to discuss these and any ideas. It is also open to the public and can be discuss openly versus contacting Council members separately and being accused of doing something underhanded. Franklin thanked the Council for listening and stated that he and Mr. Alcon were satisfied with the comments they had received.

12. APPROVE PAY EQUITY IMPLEMENTATION REPORT FOR YEAR ENDING 2006.

Clerk Hirsch stated that Dave Callister helped with this. It is a requirement from the State of MN that we report the pay equity between male and female.

Motion by Betts, second by Fisher to approve the pay equity report to be sent to the State. All present voted aye. MOTION CARRIED.

13. ACCEPT JOE GEELAN'S RESIGNATION FROM THE PARKS COMMISSION AND APPROVE TO ADVERTISE FOR A REPLACEMENT.

Motion by Betts, second by Strong to accept Joe Geelan's resignation from the Parks Commission and to advertise for a replacement. All present voted aye. MOTION CARRIED.

14. OPEN/MISCELLANEOUS.

There were no additional items.

15. ADJOURN.

Motion by Betts, second by Gyllenblad to adjourn. All present voted aye. MOTION CARRIED. Meeting adjourned at 10:07 p.m.

Respectfully submitted,

Mollie Little, Recording Secretary