



Please note that, pursuant to the authority provided by Minn. Stat. Sec. 13D.021, subd. 1(1), the City has determined that in-person meetings of the City Council are not practical or prudent due to the COVID-19 public health pandemic and the declared national, state, and local emergencies. Meetings of the Council will be conducted by electronic or telephonic means. Under Minn. Stat. Sec. 13D.021, subd. 3, to the extent practical and possible, the City Council will allow individuals to monitor the meeting electronically. Access to the meeting can be obtained online by following the link provided below or by contacting the City Hall for instructions and methods for obtaining access to the meeting.

Meeting Access Information: <https://www.ci.independence.mn.us/meetings>

CITY COUNCIL MEETING AGENDA TUESDAY DECEMBER 15, 2020

CITY COUNCIL MEETING TIME: 6:30 PM

1. Call to Order
2. Pledge of Allegiance
3. Roll Call

4. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the December 1, 2020 Truth in Taxation Meeting.
- b. Approval of City Council Minutes from the December 1, 2020 Regular City Council Meeting.
- c. Approval of Accounts Payable; Checks Numbered 20093 to 20143 (two check run batches).
- d. Approval of the Mayor's Attendance at the National League of Congressional Cities Virtual Conference March 7-10, 2021.
- e. Approval of **RESOLUTION 20-1215-01** Designating City Hall as the Official Polling Place for all 2021 Elections.
- f. Annual Payments to WeCan and Delano Senior Center for Services Provided to the Residents of Independence.
- g. Approval of Engagement with CliftonLarsonAllen LLP to Perform the 2020 Financial Audit.
- h. Approval of **RESOLUTION 20-1215-02** Allowing the Creation of the Special Revenue Lawful Gambling Fund.

5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.
6. Reports of Boards and Committees by Council and Staff.
7. West Hennepin Public Safety Director Gary Kroells: Presentation of the October 2020 Activity Report.
8. Consideration of **RESOLUTION 20-1215-03** Revoking the Conditional Use Permit for the Property Located at 3315 County Road 92 N. (PID No. 09-118-24-34-0004).
9. Open/Misc.
10. Adjourn.

MINUTES OF THE TRUTH IN TAXATION HEARING
A SPECIAL MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, DECEMBER 1, 2020 – 6:00 P.M.
(Virtual meeting/ all attendees)

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a truth in taxation hearing of the Independence City Council was called to order by Mayor Johnson at 6:00 p.m.

Johnson explained this is a Public Hearing for the City's 2021 Budget.

2. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Spencer, Grotting, and McCoy
ABSENT: None
STAFF: City Administrator Kaltsas, Administrative Assistant Horner
VISITORS: WHPS Chief Kroells, Steve McDonald (ABDO), 3 visitors

3. TRUTH IN TAXATION HEARING

McDonald noted this was the budget that would be certified as well as the levy to be submitted to the state. The proposed budget is 3,330, 698 which represents a 7.86% increase. The tax capacity is compared to neighboring cities with similar rates. The tax rate is slightly higher than the previous year at 39.77 keeping it under 4% so the increase is not significant. The largest spend is the West Hennepin Police Department. McDonald noted the detailed report included in the packet.

Johnson stated that we need to let residents know that the City has been absorbing the costs of recycling for residents which is going up this year.

Grotting asked how our police allocation compares to similar municipalities. McDonald said it is typical to see 40-50% and our allocation is on the low end at around 40%. McCoy said having a JPA gives an accurate picture of the budget for Police.

Kaltsas noted that properties are still valued lower than the majority of other municipalities in Hennepin County. We have not increased at the same rate as others since the recession that happened ten years ago, so we are still playing catch-up. Grotting noted we have to share the tax burden over fewer people.

Grotting asked if Kaltsas could address the remodel and why it is being done now. Kaltsas said there were big maintenance issues along with mechanical updates that were needed so multiple items were looked at and this was the target year to start the project because one of our government obligation bonds was paid off. It will update the needed items and refresh the building aesthetically.

4. ADJOURNMENT

Motion made by McCoy, seconded by Betts, to adjourn the meeting at 6:28 p.m. Ayes: Betts, Johnson, Spencer, Grotting and McCoy. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully submitted,

Trish Bemmels, Recording Secretary

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, DECEMBER 1, 2020 –6:30 P.M.
(Virtual Meeting/ All Attendees)

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 6:30 p.m.

3. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

2. ROLL CALL (Note: all noted present were “virtually” present

PRESENT: Mayor Johnson, Councilors Spencer, Betts, McCoy and Grotting

ABSENT: None

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner, City Attorney Vose

VISITORS: Mark Theirot, Vince Velie, WHPS Chief Kroells, Stephen Eckman

3. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the November 17, 2020 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 20072-20092.
- c. Pay Request #3 from Wm. Mueller and Sons, Inc. for work completed on the 2020 Overlay Project Through 2020.
- d. **RESOLUTION 20-1201-01** – Certifying Delinquent Sewer Service Charges.
- e. Approval to not waive the monetary limits on Tort Liability established by MN Statutes, to the extent of the limits of liability coverage obtained from the LMCIT.

Johnson tabled Resolution 20-1201-01- Certifying Delinquent Sewer Service Charges.

Motion by Grotting, second by Spencer to approve the Consent Agenda. Ayes: Johnson, Spencer, and Grotting. Nays: None. Absent: McCoy and Betts. Abstain. None. MOTION DECLARED CARRIED.

Johnson noted that one of the accounts on the delinquent list had paid a portion of their bill. (5080 Fern Dr.) Kaltsas noted the new amount to be certified would be \$322.30 and he would correct it on the certified copy accordingly.

Motion by Betts, second by McCoy to approve RESOLUTION 20-1201-01 – Certifying Delinquent Sewer Service Charges with the noted change on 5080 Fern Dr. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

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

5. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- None

Grotting attended the following meetings:

- None

McCoy attended the following meetings:

- None

Betts attended the following meetings:

- None

Johnson attended the following meetings:

- National League of Cities (virtual)
- Metro Cities Annual Meeting (virtual)
- Senior Community Services Board Meeting (virtual)
- Jim Ramstad's funeral (virtual)

Horner attended the following meetings:

- Met with BKV architects

Kaltsas attended the following meetings:

- Bi-weekly meeting on County Road 92 and Highway 12 projects

7. Discussion regarding compliance of the Conditional Use Permit granted for the property located at 3315 County Road 92 N. (PID No. 09-118-24-34-0004).

Kaltsas stated that last year the City completed its regular compliance review of all conditional use permits in the City. Following inspection of the majority of conditional use permits and after an extended period of time and opportunities were granted to property owners to bring non-compliant properties into compliance, it was recommended that a handful of conditional use permits be considered for revocation. The City Council revoked a number of conditional use permits in February 2019 based on non-compliance or no longer being used by the property owner.

The property located at 3315 County Road 92 N. was notified of a hearing for revocation at the February 5th City Council Meeting. The property identification number was mistakenly not included in the revocation resolution. The City identified this error and looked to make a correction at the July 30, 2019 City Council Meeting. The City Council considered the matter at the July 2019 meeting. The future buyer of the property attended the meeting and asked the City Council to consider postponing a decision on the CUP revocation. The buyer described his intent to clean the property and bring it into compliance with applicable conditions associated with the conditional use permit. Council discussed the matter and ultimately decided to table revocation of the CUP. After a lengthy Council discussion, it was noted that the purpose for tabling the CUP was to allow the buyer and opportunity to consider and make application for an Interim Use Permit. The

Interim Use Permit would allow a reasonable public process to be authenticated and relevant current details of the business to be considered by the City.

The purchaser of the subject property, Vincent Velie, made an application to the City in October of 2019 for an Interim Use Permit. The City reviewed and processed the IUP. The Planning Commission considered the IUP in February 2020 and were unable to pass a motion to approve nor deny the application. Ultimately, the IUP was withdrawn by the applicant before City Council consideration on the matter. At the request of Mr. Velie's Attorney, the City inspected the site in April 2020. The City prepared a letter with the findings of the inspection. A copy of the inspection letter is attached to this report. Mr. Velie's Attorney has also provided the City with a list of equipment and vehicles on the property that Mr. Velie does not use in his business. The City has also received several additional letters or correspondence from neighboring property owners relating to the use of the property in 2019 and 2020. In addition to the inspection made by staff, West Hennepin Public Safety has been called to the property for several additional complaints. Mr. Velie's Attorney has prepared an additional letter to the City relating to a concern addressed by WHPS on June 26th, 2020. It should be noted that WHPS had visited the site prior to this incident and had given the owner a verbal warning to discontinue burning on the property.

The City Council is being asked to consider the information presented and to provide direction to staff relating to the status of the revocation of the existing conditional use permit that was tabled in 2019.

Vose noted the history of the property and addressed three legal points. He said Conditional Use Permits run with the land and do not expire from owner to owner. He noted that is the difference between a Conditional Use Permit and an Interim Use Permit which has an expiration date. CUP's have to have conditions that are in place and observed for the permit to remain in effect. Vose said the second point is that the correspondence being addressed in the letters from the property owner's attorney alludes to past violations not applying to the current owner. Vose said that is incorrect and that past violations may be considered. The final point addresses business versus general life use of the property. He said the requirements have to be understood in how they apply to the property in regard to how the business is operated versus general life operations.

Theirotff (Attorney for Velie) stated the property was an entirely different place that was presented in earlier pictures submitted of the property. He said the CUP points to the property interest and the reason Velie bought the property. Theirotff noted Velie has spent thousands of dollars improving the property after he purchased it. Theirotff said item "k" is basically a "catch all" and the noise over the past year has been in direct relation to Velie improving the property and not business violations.

Spencer said he spoke with the seller's realtor and there was no guarantee of the transfer of the CUP with the purchase of the property. Theirotff said it does not matter because the CUP transfers with the property regardless. Spencer said the CUP was issued with some amnesty's in the 1990's and there is a limitation that the business may not be expanded. Vose noted the language quoted is from the ordinance and the underlying theme is whether the conditions are consistent with the original operation.

Betts asked why Velie was not considering an Interim Use Permit instead of a CUP. Theirotff said it was not desirable as it would have an expiration date.

McCoy asked if in light of Ordinance 88 and if this property has seen an expansion or uptick in the CUP. Kaltsas said that would be subjective and it would have to be investigated since original approval. Spencer asked if storage sheds added would be an expansion of use. Kaltsas said there were three sheds added that were not part of the original CUP and permits were not pulled. An amendment should have been pulled to add those per the CUP.

Stephen Eckman said he lives across the street from the property at 3315. He said this property has been a problem that dates back to amnesty times some 26 years ago. He said there has been landscaping, tree grinding and employees coming and going which are not compliant per the zoning of this area. Eckman said Poole never complied with the CUP that Council approved 26 years ago. He said the 2005 Ordinance revision of non-compliant CUP's would be expired if not complied with after inspection. Eckman suggested the CUP is no longer in effect and formal revocation is not required in his opinion. He agrees with Spencer that Velie acknowledged in writing at the closing that the CUP was not in effect. Eckman said Velie's use of the land is commercial in an ag district which makes it non-conforming and illegal. He said if there is some loophole found within law then it should be dissolved because of repeated violations. It is not fair to neighbors and this situation should be nipped in the bud. Eckman urged the Council to put a stop to this CUP.

Grotting asked Vose why the CUP was not dissolved years ago when the activity stopped. Vose said it relates back to condition number 1 which outlines the CUP running with the land. Vose said if the majority of the Council feels the CUP should not continue than it would be through non-compliance and the issue of non-use is not the hand to play. Violations are a valid basis to revoke. Grotting said he feels this was an amnesty CUP structured around the behavior of the owner at the time. It appears the structure of that business was significantly less than what is going on now with the property. Vose said Council could look at the scope of operations going on now those facts would have to be brought forth and examined as evidence to bear. Johnson asked about information coming from the building inspector and what that file looks like. Kaltsas said there is a file and it is available publicly.

Spencer asked about item (k) which addresses neighbor's reasonable enjoyment of their property and the large fires that have occurred on the property. Vose said that goes back to his comments that business operations and general use need to be brought into conformance per Ordinance 88. Spencer asked Kroells for comments on the property. Kroells said Velie owns a tree trimming business and generates waste from that which he burns without obtaining a burn permit. He said he knows Velie is fully aware that burn permits are required and has gotten them for his other property in Independence but has never gotten one for this property. Kroells said he has called Velie and told him that a permit is required but Velie has not complied. He questions why Velie has not done this for this property.

Theirotff said the way he understands it is that his client is contesting the citation he was served for not getting a burning permit as when he went to obtain the police station was closed due to Covid. He said that his client was the one that made the call for protection for himself on the domestic call noted and it was not a situation where someone called on him.

Betts said there should be more inspection on what is actually going on and did the previous owner have some of the same activities that are going on now. Johnson said that is why records of inspections would be good to look at for a better grasp of any expansion of business. Betts said if there has been an expansion than that is a reason to revoke the CUP. Spencer said Poole's CUP is very limited and thinks the argument could be made that the businesses are very different. He said it would be very hard to operate under the original CUP without an amendment. Spencer said his personal opinion is that the CUP should be revoked. McCoy was disappointed when the IUP was pulled off the agenda by Velie as he thought it was on the road to a compromise. He said it now leaves the City with little choice and in a tough spot. McCoy said the offer was there to try and work it out, but the offer was pulled off the table by Velie.

Motion by Spencer, second by Betts to ask staff to prepare a resolution denying the CUP that would be brought before the Council at the December 15th meeting for non-conformance due to the expansion of the business and added buildings on the property located at 3315 County Road 92 N. (PID No. 09-118-24-34-0004). :

Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

8. Consider Adoption of the Final 2021 Tax Levy and General Fund Budget and Associated Actions.

- a. **RESOLUTION 20-1201-02** – Adopting the 2021 General Fund Budget.
- b. **RESOLUTION 20-1201-03** – Adopting the 2021 General Tax Levy.
- c. **RESOLUTION 20-1201-04** – Adopting the 2021 Pioneer Sarah Creek Watershed Management Commission Tax Levy.

Motion by Spencer, second by McCoy to approve RESOLUTION 20-1201-02 – Adopting the 2021 General Fund Budget. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Motion by Spencer, second by Betts to approve RESOLUTION 20-1201-03 – Adopting the 2021 General Tax Levy. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Motion by Johnson, second by Spencer to RESOLUTION 20-1201-04 – Adopting the 2021 Pioneer Sarah Creek Watershed Management Commission Tax Levy. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Spencer noted the work Commissioner Joe Baker has done with the Pioneer Sarah Creek Watershed district which has been extremely diligent and resulted in a relatively flat levy for several years.

9. A proposed text amendment to the City of Independence Ordinances as follows:

- a. **ORDINANCE NO. 2020-03 (Summary Ordinance 2020-03)** - Chapter 5, Section 530.03 and 530.07, Physical Standards in both the Agriculture and Rural Residential zoning districts – Considering an amendment to detached accessory structure setbacks. The potential ordinance amendment considers both the process for reviewing accessory structure setbacks and the required setback.

Kaltsas said following the discussion and direction provided by the City Council and Planning Commission, staff has prepared an ordinance amendment for further consideration and direction by the Planning Commission. The following changes have been made to the ordinance:

- The rear yard setback can be reduced by the Accessory Building Review Committee if all applicable criteria are met. The primary reduction would allow a rear yard setback reduction equal to the requisite setback of the adjacent property sharing the same line. For example, if an adjacent property has a side yard setback of 15 feet, then the rear yard setback could be reduced up to 15 feet.
- I added a provision that would allow a similar reduction for properties that abut Out lots. This occurs in cluster type developments where a perimeter Out lot was created for public space.
- I noted that a setback resulting from a non-conforming structure or variance cannot be used to determine a reduced setback.

- I added a provision to the front yard setback that provides for properties that do not have a front yard that abuts a public right of way.

Staff reviewed the possibility of adding a provision which would regulate the size and or height of an accessory structure as it pertains to this reduced setback. I am not sure that there is an identifiable and or logical “break” point where a hard limitation would be appropriate. By requiring all reductions to be reviewed by the building review committee, the City will be able to review each individual proposal on its own merit. One resident was present at the public hearing and noted that he would support the recommended changes and was in favor of allowing a reduction to the rear yard setback. Planning Commissioners discussed the proposed amendment. Commissioners asked if surrounding neighbors should have the ability to reject the request. It was further discussed that the reason the neighboring property owners would be notified is to ensure that they are aware of the proposed construction. Commissioners confirmed that if a request was denied by the Accessory Building Review Committee, an applicant could seek a variance through the formal process. This was confirmed by staff.

Commissioners discussed the impacts of this provision on property that abutted public property (i.e., the Luce Line Trail). Commissioners discussed this for some time but ultimately agreed that the onus would fall on the applicant to obtain written permission from the property owner (state or otherwise). If this was not attainable, it was noted that the applicant could go through the variance process. Commissioners ultimately recommended approval of the ordinance amendment to the City Council. The City Council is presented with an ordinance amendment (**ORDINANCE 2020-03**) for consideration and adoption. A summary ordinance (**SUMMARY ORDINANCE 2020-03**) has also been presented for adoption should the Council approve the ordinance.

Johnson stated the Planning Commission did a great job analyzing this and commended them on their work. Betts asked if this would require it to come back to Council if looking at approval. Kaltsas said it would not be required if all conditions are met.

Motion by Grotting, second by McCoy to approve ORDINANCE NO. 2020-03 (Summary Ordinance 2020-03) - Chapter 5, Section 530.03 and 530.07, Physical Standards in both the Agriculture and Rural Residential zoning districts – Considering an amendment to detached accessory structure setbacks. The potential ordinance amendment considers both the process for reviewing accessory structure setbacks and the required setback. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

10. A proposed text amendment to the City of Independence Ordinances as follows:

- a. **ORDINANCE NO. 2020-04 (Summary Ordinance 2020-04)** - Section 1100 relating to cigarettes and cigarette wrappers – Considering an amendment to address the new statutory age limitations that were adopted by the State of Minnesota.

Johnson asked why the City needed to do this as it was already a State Ordinance. Kaltsas said it has been revised to be consistent with the state statute. Kroells said they are trying to prevent the use of drugs, alcohol and tobacco by children by updating the ordinance from 18 to 21 years of age. He noted that the police are not allowed to issue citations for underage use which makes it frustrating to enforce.

Kaltsas stated on August 1, 2020, the Minnesota State Legislature updated the tobacco laws to reflect changes in the Minnesota State Statute 144.391 to prevent young people from starting to use tobacco products. The

minimum age required to purchase tobacco products has been raised from 18 to 21. Staff has worked with the City Attorney to revise the ordinance to bring it into compliance with the recently adopted state statute.

The City Council is presented with an ordinance amendment (**ORDINANCE 2020-04**) for consideration and adoption. A summary ordinance (**SUMMARY ORDINANCE 2020-04**) has also been presented for adoption should the Council approve the ordinance.

Motion by Johnson, second by Spencer to approve ORDINANCE NO. 2020-04 (Summary Ordinance 2020-04) - Section 1100 relating to cigarettes and cigarette wrappers – Considering an amendment to address the new statutory age limitations that were adopted by the State of Minnesota. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

11. Consider Approval of the New City Single Sort Recycling Contract with Randy's Environmental Services.

a. **RESOLUTION 20-1201-05** – Approving the contract for recycling services.

Kaltsas said the City has historically contracted with a waste service provider to provide single sort recycling services for all Independence residents. The current contract ends on December 31, 2020. The City prepared and sent out a Request for Proposals (RFP) in September of this year to obtain proposals for a new contract. Due to contraction, acquisitions and mergers within the industry, the City received only one proposal from our current provider (Randy's Environmental Services). The City subsequently reached out to all possible service providers to see if anyone else was interested in providing a proposal for service.

The proposed recycling contract would increase the annual recycling contract from \$50,885 in 2020 to \$66,677 in 2021. It was noted that the City's current contract proved to be advantageous to the City due to its length and the significant change in commodity pricing. This represents an approximately 25% increase in the cost of obtaining the recycling service. In discussions with providers, it was noted that the price increase generally reflects a significant reduction in the pricing of commodities that has occurred for the past several years. One other item of note is that the previous contract was a seven (7) year contract. As a result of the lack of competitive bids, the proposed contract length is three (3) years. The City can seek a different length in contract if directed by the Council. The proposed contract has an annual increase of 2.75% to offset the declining commodities market. The service will provide each property of the City with a 65-gallon single sort container that will be picked up every other week. Residents can request a 96-gallon single sort container if they would like a larger container at no cost.

Motion by Spencer, second by Grotting to approve RESOLUTION 20-1201-05 – Approving the contract for recycling services. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

12. OPEN/MISC.

Johnson noted that the City of Maple Plain cancelled the "View Santa" event this year without input from WHPS. Kroells stated there has been a 40-year tradition of hosting the "View Santa" event for children which also combined a food drive. He said this was a result of limited social gatherings per Governor's Walz order due to Covid19. Maple Plain then contacted Kroells and requested the cancellation of the event. Kroells stated 70-80 percent of the event takes place in Maple Plain so he did cancel the event for this year. Kroells

encouraged people to continue to donate to local food shelves that are needing the donations. Betts said it would have been nice to have a discussion with the Police Commission.

13. ADJOURN.

Motion by Johnson, second by Spencer to adjourn at 8:37 p.m. Ayes: Johnson, Grotting and Spencer. Nays: None. Absent: Betts and Spencer. None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

December1, 2020

Independence City Council and Staff

Reference. National League of Cities Congressional Cities Conference

I would like the opportunity to participate in the 2021 Virtual National League of Congressional Cities Conference, March 7 – 10, 2021. If I register before January 15th the fee is only \$99.00.

The Conference will include my Small Cities Council Steering Committee meeting as well as the Advocacy Committee Meeting for Energy, Environment and Natural Resources Council that I am a member of. I have no idea how we will be meeting with our Senators and Congressional Delegates, but that will be arranged as part of the Conference.

Marvin D. Johnson, Mayor



RESOLUTION OF THE
CITY OF INDEPENDENCE
HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 20-1215-01

RESOLUTION DESIGNATING THE 2021 POLLING PLACE

WHEREAS, Minnesota Statutes 204B.16, subd.1 requires the governing body of each municipality to designate polling places within their city by December 31st each year.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, hereby designates the following polling place for elections conducted in the city in 2021:

Independence City Hall
1920 County Road 90
Independence, MN 55359

This resolution was adopted by the City Council of the City of Independence on this 15th day of December 2020, by a vote of _____ ayes and _____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

City of Independence

Consideration of a Payment to the Delano Area Senior Center and WeCAN for 2020

To:	City Council
From:	Mark Kaltsas, City Administrator
Meeting Date:	December 15, 2020

Discussion:

The City of Independence is being asked to consider making a payment to the Delano Area Senior Center and WeCAN for services provided to residents in 2020.

- Delano Area Senior Center is asking for a payment of \$1,846.00 for services provided to residents in 2020. The amount represents a 3% increase from the 2019 payment. The City has historically paid a fee to the Senior Center. Most recently the City paid \$1,792.00 to the Senior Center in 2019. The Senior Center provides congregate meals, meals on wheels, education, wellness clinics, assistance with taxes and health insurance, legal aid, day tours, socialization and recreation to area senior citizens. The Senior Center served approximately 2,500 individuals in the past year. It is estimated that 250 of the individuals served were from Independence.
- The City of Independence has supported services for its residents given by WeCAN, a community-based human service organization dedicated to helping low-income people achieve greater self-sufficiency and family stability. WeCAN provides services which include emergency assistance for housing stability, family support services, Meals on Wheels, a mobile food shelf, employment support, public assistance intake services and other resources. The City has historically made a payment for \$1,500 to WeCan for services provided to the residents of Independence.

It is anticipated that the City will also be providing an additional payment to both organizations utilizing remaining cares act funding. The City is working on finalizing 2020 eligible expenses for Cares Act Funding and will be bringing a recommendation for additional funding to Council at our next workshop.

Recommendation:

The City Council is being asked to consider granting approval for the 2020 payment in the amount of \$1,846.00 to the Delano Area Senior Center and \$1,500.00 to WeCAN. Both of these expenditures were budgeted in 2020.

"Share the Love"

Dear City of Independence,

November 2020

"Share the Love."

This is the theme we chose for this year's holiday appeal letter. I really like it, because in these strange and challenging times, sharing love, friendship and kindness is so important. Thanks to your love and support, we have been able to serve families in our community who are struggling and need our help. **I encourage you to "share the love" and make a positive difference by donating now to end our year strong.**

As I look back on my first year at WeCAN (and wow, what a year it's been!), I have seen so many people sharing their time, energy, resources and love to help our clients. Our donors, volunteers, staff and Board of Directors have come together with our partner churches, schools, businesses, cities and civic groups to generously support our neighbors in need. We have adapted our operations to serve our clients in new and safer, but more challenging ways. The fact is, we simply can't do it without you. Your donations make a real and lasting impact!

We don't know how next year will look, with so many uncertainties in this world, but we do know that the need will be greater than ever before. Families are several months behind in rent and utilities. People have lost jobs with little hope of getting them back. There is worry about the future. But by providing real relief through our network of support programs, we can help these families get back on the path to stability and self-sufficiency.

Please make this possible with your tax-deductible donation using the enclosed envelope or give online at wecanmn.org. **Your holiday gift will be doubled by a generous \$15,000 dollar for dollar match by a local family foundation.**

Your donation is helping to make our community healthier. Right here. Right now. Thank you so much for your support!

With sincere thanks and gratitude,



Christopher Anderson
Executive Director

WeCAN Client - November 2020
"I received my beautiful down coat today from WeCAN! I have been wearing my mother's old coat since she passed in 2004. Thank you again for all the kindness, happiness and joy you bring to all of us!"

P.S. Will you please make a gift today of \$50, \$100 or whatever you can afford to help us continue this work? THANK YOU!

WeCAN, 5213 Shoreline Drive, Mound, MN 55364 * 952-472-0742 * wecanmn.org

WeCAN is a 501(c)3 organization #41-1466409. Your donation may be tax deductible.

City of Independence

Consideration of Engagement with CLA to Perform the 2020 Financial Audit

<i>To:</i>	City Council
<i>From:</i>	Mark Kaltsas, City Administrator
<i>Meeting Date:</i>	December 15, 2020

Discussion:

The City of Independence has been using the services of CliftonLarsonAllen LLP (CLA) to perform the financial audit for the past five years. Staff and the City have been pleased with the services provided and believe that the City should continue to utilize CLA for the annual financial audit. The City asked CLA to provide a proposal for the 2020 audit services. The engagement letter provided offers the 2020 services for a fee of approximately \$13,000 which is in line with past audits and current market.

Recommendation:

The City Council is being asked to approve the engagement of CLA for the 2020 audit and authorize the Mayor and City Administrator to execute the contract.

Attachments: Engagement Letter



CLA (CliftonLarsonAllen LLP)
220 South Sixth Street, Suite 300
Minneapolis, MN 55402-1436
612-376-4500 | fax 612-376-4850
CLAconnect.com

December 3, 2020

Honorable Mayor, Members of the City Council and Management
City of Independence
1920 County Road 90
Independence, MN 55359

We are pleased to confirm our understanding of the terms and objectives of our engagement and the nature and limitations of the audit and nonaudit services CliftonLarsonAllen LLP ("CLA," "we," "us," and "our") will provide for the City of Independence ("you," "your," or "the entity") for the year ended December 31, 2020.

Christopher G. Knopik, CPA, CFE is responsible for the performance of the audit engagement.

Audit services

We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City of Independence, as of and for the year ended December 31, 2020, and the related notes to the financial statements.

The Governmental Accounting Standards Board (GASB) provides for certain required supplementary information (RSI) to accompany the entity's basic financial statements. The following RSI will be subjected to certain limited procedures, but will not be audited.

1. Management's discussion and analysis.
2. GASB Statement No. 68 schedule of propitiate share of net pension liability and schedule of employer contributions.

We will also evaluate and report on the presentation of the supplementary information accompanying the financial statements in relation to the financial statements as a whole.

1. Combining and individual fund financial statements.

The following information other than RSI accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements and our auditors' report will not provide an opinion or any assurance on that information:

1. Summary financial report – revenues and expenditures for general operations governmental funds.

Nonaudit services

We will also provide the following nonaudit service:

- Preparation of your financial statements and related notes.

Audit objectives

The objective of our audit is the expression of opinions about whether your basic financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP). Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS) and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of your accounting records and other procedures we consider necessary to enable us to express such opinions. We will apply certain limited procedures to the RSI in accordance with U.S. GAAS. However, we will not express an opinion or provide any assurance on the RSI because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. We will also perform procedures to enable us to express an opinion on whether the supplementary information (as identified above) other than RSI accompanying the financial statements is fairly stated, in all material respects, in relation to the financial statements as a whole.

We will issue a written report upon completion of our audit of your financial statements. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If circumstances occur related to the condition of your records, the availability of sufficient, appropriate audit evidence, or the existence of a significant risk of material misstatement of the financial statements caused by error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment prevent us from completing the audit or forming opinions on the financial statements, we retain the right to take any course of action permitted by professional standards, including declining to express opinions or issue a report, or withdrawing from the engagement.

As part of our audit, we will also perform the procedures and provide the report required by the *Minnesota Legal Compliance Audit Guide for Political Subdivisions*.

Auditor responsibilities, procedures, and limitations

We will conduct our audit in accordance with U.S. GAAS and the standards for financial audits contained in *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements as a whole are free from material misstatement, whether due to fraud or error. An audit involves performing procedures to obtain sufficient appropriate audit evidence about the amounts and disclosures in the basic financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the basic financial statements.

There is an unavoidable risk, because of the inherent limitations of an audit, together with the inherent limitations of internal control, that some material misstatements may not be detected, even though the audit is properly planned and performed in accordance with U.S. GAAS and *Government Auditing Standards*.

Because we will not perform a detailed examination of all transactions, material misstatements, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity, may not be detected. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management and those charged with governance of any material errors, fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management and those charged with governance of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention.

In making our risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the basic financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting fraud or errors that are material to the financial statements and to preventing and detecting misstatements resulting from noncompliance with provisions of laws, regulations, contracts, and grant agreements that have a material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*. An audit is not designed to provide assurance on internal control or to identify deficiencies, significant deficiencies, or material weaknesses in internal control. However, we will communicate to you in writing significant deficiencies or material weaknesses in internal control relevant to the audit of the basic financial statements that we identify during the audit that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Management responsibilities

Our audit will be conducted on the basis that you (management and, when appropriate, those charged with governance) acknowledge and understand that you have certain responsibilities that are fundamental to the conduct of an audit.

You are responsible for the preparation and fair presentation of the financial statements and RSI in accordance with U.S. GAAP.

Management's responsibilities include the selection and application of accounting principles; recording and reflecting all transactions in the financial statements; determining the reasonableness of significant accounting estimates included in the financial statements; adjusting the financial statements to correct material misstatements; and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design, implementation, and maintenance of effective internal control, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error. You are responsible for the design, implementation, and maintenance of internal controls to prevent and detect fraud; assessing the risk that the financial statements may be materially misstated as a result of fraud; and for informing us about all known or suspected fraud affecting the entity involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for implementing systems designed to achieve compliance with applicable laws and regulations and the provisions of contracts and grant agreements; identifying and ensuring that the entity complies with applicable laws, regulations, contracts, and grant agreements; and informing us of all instances of identified or suspected noncompliance whose effects on the financial statements should be considered. You are responsible for taking timely and appropriate steps to remedy any fraud; noncompliance with provisions of laws, regulations, contracts, or grant agreements; or abuse that we may report.

You are responsible for ensuring that management is reliable and for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters, and for the accuracy and completeness of that information, and for ensuring the information is reliable and properly reported; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence. You agree to inform us of events occurring or facts discovered subsequent to the date of the financial statements that may affect the financial statements.

Management is responsible for the preparation of the supplementary information in accordance with U.S. GAAP. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. You agree to provide us written representations related to the presentation of the supplementary information.

Management is responsible for providing us with a written confirmation concerning representations made by you and your staff to us in connection with the audit and the presentation of the basic financial statements and RSI. During our engagement, we will request information and explanations from you regarding, among other matters, the entity's activities, internal control, future plans, specific transactions, and accounting systems and procedures.

The procedures we will perform during our engagement and the conclusions we reach as a basis for our report will be heavily influenced by the representations that we receive in the representation letter and otherwise from you. Accordingly, inaccurate, incomplete, or false representations could cause us to expend unnecessary effort or could cause a material fraud or error to go undetected by our procedures. In view of the foregoing, you agree that we shall not be responsible for any misstatements in the entity's financial statements that we may fail to detect as a result of misrepresentations made to us by you.

Responsibilities and limitations related to nonaudit services

For all nonaudit services we may provide to you, management agrees to assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience to understand and oversee the services; evaluate the adequacy and results of the services; and accept responsibility for the results of the services.

The responsibilities and limitations related to the nonaudit services performed as part of this engagement are as follows:

- We will prepare a draft of your financial statements and related notes. Since the preparation and fair presentation of the financial statements is your responsibility, you will be required to review, approve, and accept responsibility for those financial statements prior to their issuance and have a responsibility to be in a position in fact and appearance to make an informed judgment on those financial statements.

Responsibilities and limitations related to nonaudit services

For all nonaudit services we may provide to you, management agrees to assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, and/or experience to understand and oversee the services; evaluate the adequacy and results of the services; and accept responsibility for the results of the services.

Use of financial statements

The financial statements and our report thereon are for management's use. If you intend to reproduce and publish the financial statements and our report thereon, they must be reproduced in their entirety. Inclusion of the audited financial statements in a document, such as an annual report or an offering document, should be done only with our prior approval of the document. You are responsible to provide us the opportunity to review such documents before issuance.

Should you decide to include or incorporate by reference these financial statements and our auditors' report(s) thereon in a future private placement or other offering of equity or debt securities, you agree that we are under no obligation to re-issue our report or provide consent for the use of our report in such a registration or offering document. We will determine, at our sole discretion, whether we will re-issue our report or provide consent for the use of our report only after we have performed the procedures we consider necessary in the circumstances. If we decide to re-issue our report or consent to the use of our report, we will be required to perform certain procedures including, but not limited to, (a) reading other information incorporated by reference in the registration statement or other offering document and (b) subsequent event procedures. These procedures will be considered an engagement separate and distinct from our audit engagement, and we will bill you separately.

If we decide to re-issue our report or consent to the use of our report, you agree that we will be included on each distribution of draft offering materials and we will receive a complete set of final documents. If we decide not to re-issue our report or decide to withhold our consent to the use of our report, you may be required to engage another firm to audit periods covered by our audit reports, and that firm will likely bill you for its services. While the successor auditor may request access to our workpapers for those periods, we are under no obligation to permit such access.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website or submitted on a regulator website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in those sites or to consider the consistency of other information in the electronic site with the original document.

We may issue preliminary draft financial statements to you for your review. Any preliminary draft financial statements should not be relied on or distributed.

Engagement administration and other matters

We understand that your employees will prepare all confirmations, account analyses, and audit schedules we request and will locate any documents or invoices selected by us for testing. A list of information we expect to need for our audit and the dates required will be provided in a separate communication.

We are available to perform additional procedures with regard to fraud detection and prevention, at your request, as a separate engagement, subject to completion of our normal engagement acceptance procedures. The terms and fees of such an engagement would be documented in a separate engagement letter.

The workpapers supporting the services we perform are the sole and exclusive property of CLA and constitute confidential and proprietary information. We do not provide access to our workpapers to you or anyone else in the normal course of business. Unless required by law or regulation to the contrary, we retain our workpapers in accordance with our record retention policy that typically provides for a retention period of seven years.

Our relationship with you is limited to that described in this letter. As such, you understand and agree that we are acting solely as independent accountants. We are not acting in any way as a fiduciary or assuming any fiduciary responsibilities for you. We are not responsible for the preparation of any report to any governmental agency, or any other form, return, or report or for providing advice or any other service not specifically recited in this letter.

Our engagement and responsibility end on delivery of our signed report. Any additional services that might be requested will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

Government Auditing Standards require that we make our most recent external peer review report publicly available. The report is posted on our website at www.CLAconnect.com/Aboutus/.

Mediation

Any disagreement, controversy, or claim ("Dispute") that may arise out of any aspect of our services or relationship with you, including this engagement, shall be submitted to non-binding mediation by written notice ("Mediation Notice") to the other party. In mediation, we will work with you to resolve any differences voluntarily with the aid of an impartial mediator.

The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the Dispute.

Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

Any Dispute will be governed by the laws of the state of Minnesota, without giving effect to choice of law principles.

Time limitation

The nature of our services makes it difficult, with the passage of time, to gather and present evidence that fully and fairly establishes the facts underlying any Dispute that may arise between the parties.

The parties agree that, notwithstanding any statute or law of limitations that might otherwise apply to a Dispute, including one arising out of this agreement or the services performed under this agreement, for breach of contract or fiduciary duty, tort, fraud, misrepresentation or any other cause of action or remedy, any action or legal proceeding by you against us must be commenced within twenty-four (24) months ("Limitation Period") after the date when we deliver our final audit report under this agreement to you, regardless of whether we do other services for you relating to the audit report, or you shall be forever barred from commencing a lawsuit or obtaining any legal or equitable relief or recovery.

The Limitation Period applies and begins to run even if you have not suffered any damage or loss, or have not become aware of the existence or possible existence of a Dispute.

Fees

Our fees for these services will be based on the time involved and the degree of responsibility and skills required, plus expenses including internal and administrative charges. Based on our preliminary estimates, the fee for the engagement should approximate \$12,500, plus a technology and client support fee of five percent (5%) of all professional fees billed. The fee estimate is based on anticipated cooperation from your personnel and their assistance with preparing confirmations and requested schedules. If the requested items are not available on the dates required or are not accurate, the estimated fee for services will likely be higher. If unexpected circumstances require significant additional time, we will advise you before undertaking work that would require a substantial increase in the fee estimate. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 60 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed even if we have not issued our reports. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

Unanticipated services

We do not anticipate encountering the need to perform additional services beyond those described in this letter. Below are listings of services considered to be outside the scope of our engagement. If any such service needs to be completed before the audit can proceed in an efficient manner, we will determine whether we can provide the service and maintain our independence. If appropriate, we will notify you and provide a fair and reasonable price for providing the service. We will bill you for the service at periodic dates after the additional service has been performed.

Bookkeeping services

Bookkeeping services are not audit services. Bookkeeping services include the following activities:

- Preparation of a trial balance
- Account reconciliations
- Bank statement reconciliations
- Capital asset accounting (e.g., calculating depreciation, identify capital assets for additions and deletions)
- Calculating accruals
- Analyzing transactions for proper recording
- Converting cash basis accounting records to accrual basis
- Preparation of financial statements and the related notes to the financial statements
- Processing immaterial adjustments through the financial statements
- Adjusting the financial statements for new activities and new disclosures

Additional work resulting from unanticipated changes in your organization or accounting records

If your organization undergoes significant changes in key personnel, accounting systems, and/or internal control, we are required to update our audit documentation and audit plan. The following are examples of situations that will require additional audit work:

- Revising documentation of your internal control for changes resulting from your implementation of new information systems
- Deterioration in the quality of the entity's accounting records during the current-year engagement in comparison to the prior-year engagement
- Significant new accounting issues

- Significant changes in your volume of business
- Mergers, acquisitions, or other business combinations
- New or unusual transactions
- Changes in audit scope or requirements resulting from changes in your activities
- Erroneous or incomplete accounting records
- Evidence of material weaknesses or significant deficiencies in internal control
- Substantial increases in the number or significance of problem loans
- Regulatory examination matters
- Implementation or adoption of new or existing accounting, reporting, regulatory, or tax requirements
- New financial statement disclosures

Changes in engagement timing and assistance by your personnel

The fee estimate is based on anticipated cooperation from your personnel and their assistance with timely preparation of confirmations and requested schedules. If the requested items are not available on the dates required or are not accurate, we will advise management. Additional time and costs may be necessary because of such unanticipated delays. Examples of situations that may cause our estimated fee to increase include:

- Significant delays in responding to our requests for information such as reconciling variances or providing requested supporting documentation (e.g., invoices, contracts, and other documents)
- Rescheduling our fieldwork
- Schedule disruption caused by litigation, financial challenges (going concern), loan covenants (waivers), etc.
- Identifying a significant number of proposed audit adjustments
- Schedules prepared by your personnel that do not reconcile to the general ledger
- Numerous revisions to information and schedules provided by your personnel
- Restating financial statements for accounting errors in the prior year
- Lack of availability of entity personnel during audit fieldwork

Changes in accounting and audit standards

Standard setters and regulators continue to evaluate and modify standards. Such changes may result in new or revised financial reporting and disclosure requirements or expand the nature, timing, and scope of the activities we are required to perform. To the extent that the amount of time required to provide the services described in the letter increases due to such changes, our fee may need to be adjusted. We will discuss such circumstances with you prior to performing the additional work.

Other fees

You also agree to compensate us for any time and expenses, including time and expenses of legal counsel, we may incur in responding to discovery requests or participating as a witness or otherwise in any legal, regulatory, or other proceedings that we are asked to respond to on your behalf.

Finance charges and collection expenses

You agree that if any statement is not paid within 30 days from its billing date, the unpaid balance shall accrue interest at the monthly rate of one and one-quarter percent (1.25%), which is an annual percentage rate of 15%. In the event that any collection action is required to collect unpaid balances due us, reasonable attorney fees and expenses shall be recoverable.

Consent

Consent to use financial information

Annually, we assemble a variety of benchmarking analyses using client data obtained through our audit and other engagements. Some of this benchmarking information is published and released publicly. However, the information that we obtain is confidential, as required by the AICPA Code of Professional Conduct. Your acceptance of this engagement letter will serve as your consent to use of the City of Independence's information in these cost comparison, performance indicator, and/or benchmarking reports.

Subcontractors

CLA may, at times, use subcontractors to perform services under this agreement, and they may have access to your information and records. Any such subcontractors will be subject to the same restrictions on the use of such information and records as apply to CLA under this agreement.

Agreement

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. This letter constitutes the entire agreement regarding these services and supersedes all prior agreements (whether oral or written), understandings, negotiations, and discussions between you and CLA. If you have any questions, please let us know. Please sign, date, and return a copy of this letter to us to indicate your acknowledgment and understanding of, and agreement with, the arrangements for our audit of your financial statements including the terms of our engagement and the parties' respective responsibilities.

Sincerely,

CliftonLarsonAllen LLP



Christopher G. Knopik, CPA, CFE
Principal
612-397-3266
christopher.knopik@CLAconnect.com

Enclosure

Response:

This letter correctly sets forth the understanding of the City of Independence.

Authorized governance signature: _____

Title: _____

Date: _____

Authorized management signature: _____

Title: _____

Date: _____

MEMO

TO: CITY ADMINISTRATOR
FROM: AEM FINANCIAL SOLUTIONS, LLC
SUBJECT: LAWFUL GAMBLING FUND CREATION
DATE: 12/10/20

Background:

Currently all Lawful Gambling proceeds are collected into the Park Fund. Best financial practices suggest that the City create a Special Revenue Lawful Gambling Fund and transfer all existing gambling proceeds from the Park Fund to the new Lawful Gambling fund. This recommended change will provide a transparent and separated accounting of the gambling proceeds and aid the City in annual reporting.

Requested City Council Action:

Approve the proposed **RESOLUTION 20-1215-02** allowing the creation of the Special Revenue Lawful Gambling Fund.

Attachments: RESOLUTION 20-1215-02



RESOLUTION OF THE
CITY OF INDEPENDENCE
HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 20-1215-02

**RESOLUTION APPROVING THE CREATION OF THE SPECIAL REVENUE
LAWFUL GAMBLING FUND AND TRANSFER OF LAWFUL GAMBLING
PROCEEDS FROM PARK FUND**

WHEREAS, Minnesota Statutes, Section 349.213, Subdivision 1, Paragraph (f)(2), allows a city to require (by ordinance) an organization to contribute up to 10% per year of net profits to a fund that the city administers; and

WHEREAS, transparency in annual reporting of lawful gambling is needed; and

WHEREAS, a special revenue fund will be created for the purpose of Lawful Gambling proceeds; and

WHEREAS, under Minnesota law on expenditures from this fund must meet the definition of charitable contributions as defined in Minnesota Statutes, Section 349.12, Subdivision 7a or are for police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Independence that it will create a new Lawful Gambling Special Revenue Fund and transfer to the fund, all Lawful Gambling balances currently existing in the Park Fund.

This resolution was adopted by the City Council of the City of Independence on this 15th day of December 2020, by a vote of _____ ayes and _____ nays.

Marvin Johnson, Mayor


ATTEST:

Mark Kaltsas, City Administrator



Date: November 6, 2020

To: Public Safety Commissioners
City of Independence Council Members
City of Maple Plain Council Members

From: Director Gary Kroells 

SUBJECT: October 2020 ACTIVITY REPORT

The purpose of this report is to give the reader a quick overview of the activities of the Public Safety Department each month. It also compares monthly and year-to-date information to the reader.

The report is broken down into five categories, as defined by the Criminal Justice Reporting System.

CRIMINAL-- Criminal is broken down into Part I and Part II crimes.

Part I includes crimes against persons versus crimes against property; criminal homicide, forcible rape, robbery assault, aggravated assault, burglary -breaking or entering, larceny-theft, larceny analysis, motor vehicle theft and arson.

Part II includes other assaults, forgery and counterfeiting, fraud, embezzlement, stolen property, buying, receiving, possession; vandalism, weapons, carrying, possessing, etc.; prostitution and commercialized vice, sex offenses; drug abuse violations, gambling, offenses against the family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses, suspicion, curfew and loitering laws - persons under 18; and runaways - persons under 18.

TRAFFIC-- Includes violations of the road and driving laws.

PART III-- Lost and Found: Includes lost and found persons, animals, and property, and stalled and abandoned vehicles.

PART IV-- Casualties: Includes all motor vehicle accidents, boating, and snowmobile; public home occupational accidents, fires, suicides, sudden deaths, burning permits, and burning violations.

PART V-- Miscellaneous Public: Includes open doors, gun permit applications, suspicious activities, animal complaints, motorist assists, alarm calls, parking complaints, house checks, driving complaints, civil matters, family disputes, department assists.

The balance of the report shows the total number of incidents handled, miles driven and how the Public Safety Department received calls. If anyone should desire more detailed statistical data, please contact my office.

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West Hennepin Public Safety Department
1918 County Road 90 / Maple Plain, Minnesota 55359
Phone: (763) 479-0500 / Fax: (763) 479-0504

Web Address: <http://www.westhennepin.com> E-mail: westhennepin@westhennepin.com

Monthly Activity Report

October 2020

Offense	This Month	Same Month Last Year	This Year To Date	Last Year To Date
City Of Independence				
Criminal	16	8	83	79
Traffic	102	124	1,081	1,420
Part III	12	5	79	87
Part IV	32	26	276	359
Part V	99	101	1,172	1,321
Total City of Independence	261	264	2,691	3,266
City Of Maple Plain				
Criminal	8	6	71	58
Traffic	46	65	570	655
Part III	1	3	48	47
Part IV	9	21	193	172
Part V	56	106	606	1,004
Total City Of Maple Plain	120	201	1,488	1,936
Grand Total Both Cities	381	465	4,179	5,202
TZD	4	7	38	182
Agency Assists	10	19	164	199
Total ICR Reports	395	491	4,381	5,583
How Received				
Fax	9	2	90	71
In Person	8	40	161	302
Mail	2	0	10	8
Other	1	1	13	16
Phone	30	25	333	378
Radio	147	171	1,576	1,699
Visual	168	214	1,816	2,721
Email	16	5	220	68
Lobby Walk In	14	33	162	320
Total	395	491	4,381	5,583

October 2020 Criminal Part I & II

City of Independence Grid #'s 3-5

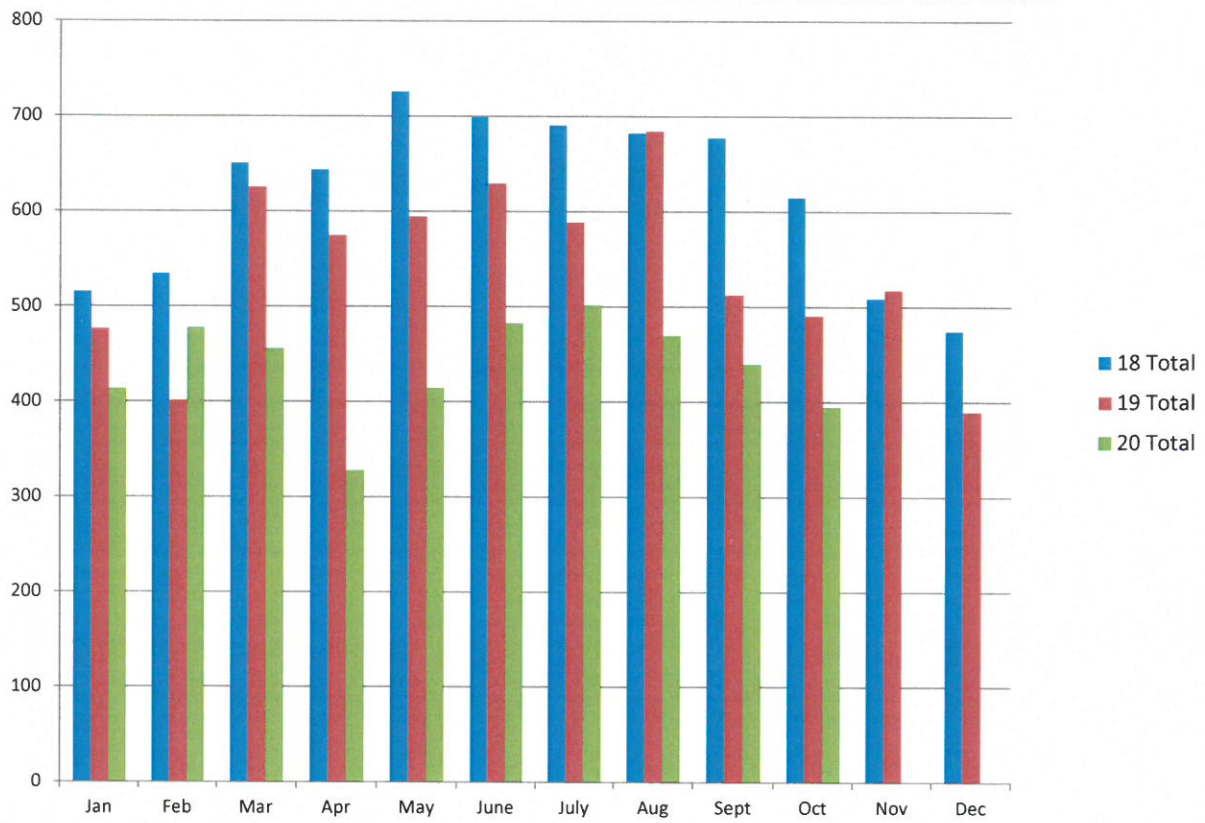
AGN	ICR	Title	Reported Date	Grid	MOC range
WHPS	20004004	Drugs Possess Marijuana / Drug Paraphernalia	10/2/2020	3	DC500
WHPS	20004009	4th Degree DWI / Drugs Possess Marijuana	10/3/2020	5	JGW01
WHPS	20004018	Theft	10/3/2020	3	T0999
WHPS	20004020	Theft	10/3/2020	3	T0229
WHPS	20004035	Theft from Auto	10/5/2020	3	TM159
WHPS	20004140	4th Degree DWI	10/11/2020	5	JGW01
WHPS	20004148	Stolen License Tabs	10/12/2020	3	VN111
WHPS	20004150	Stolen Cell Phone	10/12/2020	3	TR029
WHPS	20004154	Possession of Ammo / Firearm / Carry Possess Pistol without Permit	10/12/2020	3	W252S
WHPS	20004165	2nd Degree DWI	10/13/2020	4	JEW01
WHPS	20004184	Burglary	10/15/2020	4	B2794
WHPS	20004216	3rd Degree DWI	10/18/2020	5	JFW01
WHPS	20004221	Domestic Assault - Intentionally Inflicts / Attempts to Inflict Bodily Harm on Another / Disorderly Conduct	10/18/2020	3	N3030
WHPS	20004345	Drugs Possess Marijuana in Motor Vehicle	10/28/2020	3	DA540
WHPS	20004370	Suspicious Act - burglary tools stolen vehicle	10/31/2020	4	Q0009
WHPS	20004381	A/A - Carver CO SO - Stolen Vehicle	10/31/2020	5	E2700

October 2020 Criminal Part I & II

City of Maple Plain Grid # 1-2

AGN	ICR	Title	Reported Date	Grid	MOC range
WHPS	20004022	Vandalism/ Graffiti	10/3/2020	1	P0120
WHPS	20004023	Gross Misdemeanor Domestic Arrest	10/3/2020	1	AL302
WHPS	20004079	DANCO Violation (Domestic Abuse No Contact Order	10/8/2020	1	N3390
WHPS	20004085	Damage to Property	10/8/2020	1	P3119
WHPS	20004091	Damage Property	10/8/2020	1	P3119
WHPS	20004135	3rd Degree DWI	10/10/2020	2	JFW01
WHPS	20004178	4th Degree Burglary	10/14/2020	1	TW029
WHPS	20004209	4th Degree DWI	10/17/2020	2	JGW01

THREE YEAR COMPARISON OF POLICE CALLS FOR SERVICE & ACTIVITY



DIRECTOR'S NEWS & NOTES

WEST HENNEPIN PUBLIC SAFETY October 2020 Activity Report

Year to Date Activity Report

At the end of October 31, 2020 West Hennepin Public Safety (WHPS) handled year-to-date a total 4,381 incident complaints. For the month of October, 261 incidents were in the city of Independence and 120 in the city of Maple Plain.

The Criminal Part I and Part II cases for both cities have been highlighted for your review on the attached documents.

Recent Highlighted Cases:

Medical

Oct 1 3675 Ihduhapi Trl, Independence. Vinland Center reported a male client was experiencing hallucinations and had taken two klonopin pills earlier in the day. 28-year-old male from Lakeview admitted to drinking, submitted a breath test; PBT resulting in .17%, and he was hearing voices. North Memorial EMS transported him to the hospital.

Four Vehicle Crash/ Personal Injury

Oct 1 4:55 p.m. CR 6 / CR 19, Independence. Veh1 and Veh2 were w/b on CR 6, stopped at the stop sign. Veh3 rear ended Veh2 which struck Veh1, pushing Veh1 into the intersection, which was struck by Veh4, a flatbed delivery truck that was crossing the intersection n/b on CR 19. Driver of Veh1 suffered injuries not considered life threatening was transported by North Air Ambulance to North Hospital. Drivers of Veh2 and Veh 3, both had minor injuries and were transported by North Memorial to North Memorial Hospital. Driver of Veh 4 did not have any injuries. Veh3 driver was cited for Failure to Drive with Due Care for causing the crash. Vehicles 1, 2 & 3 were towed from the scene.

Suspicious Act

Oct 2 2055 CR 90, Independence. Reported a suspicious item was placed in a tree at Pioneer Creek Community Park. Officer found and confirmed it was a small camouflage container for geo-cache. Officer left his card with the date inside it.

4th Degree DWI

Oct 3 CR 6 / Nelson Rd, Independence. Driver stopped for 62/50 mph. Driver Lindsay Blair Jacobson, 26 from Mayer submitted a breath test which resulted in .09 breath alcohol concentration. Jacobson was arrested for 4th Degree DWI and released to her husband.

Vandalism

Oct 3 6:39 p.m. Hwy 12 / Baker Park, Maple Plain. Multiple callers witnessed suspects spraying paint on a road barricade for the new Haven Homes building and on the concrete barrier bridge underpass. Paint color is orange and evidence left, possibly the suspects got some of the paint on their shoes. Callers stated the suspects are 3 males and 1 female.

Domestic Arrest

Oct 3 11:12 p.m. 5000 block of Main Street E, Maple Plain. Female reported her boyfriend was drinking, became intoxicated, called her names, and pushed her into the door frame. Elijah Alan Foss, 40 from Maple Plain was arrested and transported to Henn Co Jail for Gross Misdemeanor Domestic Assault.

Theft from Auto

Oct 5 700 block CR 92, Independence. Reported sometime overnight someone went in the owners unlocked vehicle and stole Oakley and Ray ban sunglasses, Baby Phat 'cool cat' sunglasses, loose change and draw string style backpack with a Ford log on it. No suspects or leads were found.

Rollover Crash

Oct 6 3:20 a.m. 8600 block of CR 11, Independence. Reported debris in the road. Officer arrival found a vehicle rolled over in the ditch, and a male sitting on a pile of debris. The 29-year-old male from White Bear Lake, admitted he fell asleep while w/b on CR 11, crossed over the oncoming lane, left the road, and rolled over down an embankment. The male had minor injuries and was cited for Lane Violation.

Missing Animals

Oct 6 11:50 p.m. 2600 block CR 90, Independence. Caller reported Gilbert and Wilbur, her two pigs were missing, and asked if anyone called WHPS that they found them. Unknown if they were located.

Shots Heard

Oct 7 1800 block Baker Park Rd, Maple Plain. Caller reported s/w of his residence he heard a single gunshot. The area was checked and found construction with a lot of loud banging; did not find any kind of shooting. Caller was advised of officer findings.

Vehicle Fire

Oct 8 6:20 a.m. 1300 block CR 19, Independence. Motorist reported a smell of gas coming from his car as he pulled into the driveway. He got out of the car and shortly after his vehicle started on fire. MPFD responded and extinguished the fire. The vehicle was burned beyond repair. No injuries.

DANCO violation

Oct 8 5000 block Main Street, Maple Plain. Male made calls from Hennepin Co Jail to a female that had a Domestic Abuse No Contact Order against him. Elijah Alan Foss, 40 Maple Plain was charged with DANCO violation.

PD Crash

Oct 8 1:18 p.m. Hwy 12 / CR 83, Maple Plain. Callers reported a white Lincoln Navigator drove into the ditch, struck a road sign and fire hydrant and continued w/b on Hwy 12. Driver acknowledged he fell asleep while driving, woke up when his vehicle made impact with a street sign and fire hydrant. No detection of any impairment was found. Driver was cited for Fail to Drive with Due Care and to repair damages.

Damage to Property

Oct 8 5200 block Manchester Dr., Maple Plain. Someone attempted to break into an apartment by prying screens and broke a window.

Property Damage Crash

Oct 9 1300 block Baker Park Rd, Maple Plain. Veh1 accelerated from a driveway and struck the rear tandem axle of a semi-truck turning into the driveway. Veh1 driver said he confused forward and reverse on his vehicle. Veh1 had disabling damage and was towed from the scene. No injuries. Driver Veh1 cited for Failure to Yield at Intersection.

Down/Unknown Problem

Oct 9 3:08 p.m. Copeland Rd /Hwy 12 Independence. Caller reported a male was lying down in the grass, unknown if problems. Joseph Ridner from AZ was taking a nap before continuing his travels by walking. Ridner left AZ in May, stopping in Wyoming and Montana for a short time to work and on his way to Kentucky to visit family before heading to Canada to look for a job. Officer gave Ridner a ride to McDonalds in Wayzata and gave him a few dollars so he could get something to eat as he was out of money.

3rd Degree DWI

Oct 10 11:26 p.m. 5900 block Hwy 12, Maple Plain. Vehicle crossed over fog line, swerving and speeding. Edward Harold Barstow, 55 from Richfield submitted a breath test which resulted in .17 Breath Alcohol Concentration. Barstow was arrested and charged with 3rd Degree DWI and released to a responsible person.

Loud Party

Oct 10 11:59 p.m. 3500 block CR 90, Independence. Officer dispatched for loud party. Property owner advised it was her daughter's wedding. DJ had 4 songs left, turned the music down and would be wrapping it up soon.

4th Degree DWI

Oct 11 2:56 a.m. Hwy 12/ Hitsman Lane, Independence. Vehicle was radar clocked at 72 mph and observed crossing over the fog line hitting the rumble strips. Lucas Michael Lejeune, 27 from Minneapolis, failed field sobriety tests, was placed under arrest. Submitted a breath test which resulted in .14 Breath Alcohol Concentration He was booked and cited for 4th degree DWI and released to the custody of a friend.

Tractor Fire

Oct 11 10:32 a.m. 5800 block CR 11, Independence. While mulching leaves, the lawn mower under-carriage area became packed with dry leaves, started smoking and flames were showing. Loretto Fire extinguished the fire. No injuries or other property damaged.

Missing Person / Located

Oct 11 4:19 p.m. 7100 block Pagenkopf Rd, Independence. Caller reported 2 hours ago his wife left the house to go for walk, he was concerned as she has never been gone this long and did not take her cell phone. 45 minutes of checking the area, Officer was notified she was back at the residence. She went on a longer walk than usual and had stopped to take a rest.

Missing Dogs

Oct 11 6000 block Woodhill Lane, Independence. Dog owner reported their two dogs are missing. A black lab with a green & yellow collar and an invisible fence collar with tags and their 13-month yellow lab with a bright blue collar, no tags. Friends extensively help search the area for several days and the dogs were not found. Dog owner reported them stolen.

*Update On 10/21, the dog owners reported both dogs were located on their property. The puppy was in a hole they believe was made by the mom to shelter the puppy and the mom was partially stuck in a hole next to the puppy.

Stolen License Tabs

Oct 12 5800 block Providence Curve, Independence. Resident reported license tabs were stolen from her license plate. The stolen license tabs were entered in NCIC.

Stolen Cell Phone

Oct 12 3700 block CR 92, Independence Caller reported she left her cell phone on her tack trunk in the stable, rode for a couple hours and returned to find her phone was missing. The stolen cell phone was entered in NCIC.

Suspicious Act

Oct 12 8:42 p.m. 1700 block Perkins Lane, Maple Plain. Homeowner arrived home and thought someone was sitting on a chair inside her unlit screen porch. Officer checked the porch and backyard of the property and did not locate anyone. No issues were found.

Animal Complaint

Oct 13 1:35 p.m. 1400 block Rainbow Ave., Maple Plain. Biker reported a dog has chased him on two separate days and he was concerned he may get bit. Dog owner admitted while in the garage his 1-year old dog got loose, he attempted to run after it, but believed the dog was playing. Dog owner was warned for no dog license, dog-at-large and ordinances regarding dogs and potentially dangerous dogs that chase or bite unprovoked.

2nd Degree DWI

Oct 13 3:49 p.m. Townline Rd / CR 11, Independence. Caller reported vehicle blew stop sign, drove into ditch, erratic driving. Nicholas Lawrence Nystul, 20, Rockford was located, showed signs of impairment. Nystul was arrested and 2nd Degree DWI charges pending blood results.

Burglary

Oct 14 5300 block Pioneer Creek Dr., Maple Plain. Reported a padlock was cut off a storage unit and several fishing poles and a fish fryer were stolen.

Burglary

Oct 15 3:17 a.m. 3400 block Ihduhapi Trail, Independence. Building burglarized, over 20 tools stolen. Tools entered in NCIC. Approximate loss over \$6,000.00. Business video camera captured the suspect vehicle, and 3 suspects. Case is under investigation.

Street Complaint

Oct 16 5800 block Three Oaks, Maple Plain. Reported leaves were blown into the street and left there. Contact with the property owner who had a company cleaning up his leaves by blowing them into the front yard / street area. The company was going to return and suck them up or rake them up.

Welfare Check

Oct 16 4:02 p.m. 1500 block Howard Ave. Maple Plain. Caller requested a welfare check on a client that was released from the ER and she could not get a hold of him. No answer to Officer attempts to contact the male. Entry was made into the apartment and found the male was lying in bed. He awoke and stated he was trying to take a nap. The caller was notified of officer findings.

4th Degree DWI

Oct 17 2:12 a.m. Budd Ave / Oak Street, Maple Plain. Vehicle stopped for no taillights and was observed weaving back and forth in the traffic lane. Lexi Marie Jovanovich, 24 Loretto, submitted a breath test which resulted in .11 breath alcohol concentration. Jovanovich was arrested for 4th Degree DWI and released to a responsible person.

Burn Complaint

Oct 17 5000 block Main Street, Maple Plain. Reported an unattended pile of wood was burning with garbage in it. Officer arrival no one was home. The burn pile had wood, brush and remnants of garbage and treated / stained wood. Citation mailed to the owner for Burn Violations.

3rd Degree DWI

Oct 18 1:31 a.m. CR 92 / S Lake Sarah Dr, Independence. Vehicle observed weaving back and forth within its traffic lane and no rear license plate. Katherine Rose Klatke, 21 of Delano submitted a breath test resulting in .18 breath alcohol concentration. Klatke was arrested, transported, and booked in Henn Co Jail for 3rd Degree DWI.

Domestic

Oct 18 4:27 p.m. 4400 block Townline Rd, Independence. Reported a physical domestic between a mother and daughter. The mother had left the scene. 53-year-old Sharyl Lee Fischer was in Wayzata. Fischer was arrested, transported, and booked in Henn Co Jail for 5th Degree Domestic Assault and Disorderly Conduct.

Vehicles in Ditch

Oct 20 1:09 p.m. – 5:00 p.m. Due to heavy snow fall WHPS Officer responded to 9 reports of vehicles in the ditch in cities of Independence and Maple Plain. Several vehicles were unable to be towed from the ditch due to unsafe road conditions for a tow truck to tow them out and tow trucks were backed up on towing calls.

School Bus Assist

Oct 21 7:35 a.m. Hwy 12/ CR 90 Independence. First Student School bus was stalled on Hwy 12 at CR 90, blocking the right turn lane. Officer assisted with traffic control while Burda's responded to tow the bus.

Vehicle Crash

Oct 21 Hwy 12/ CR 90, Independence. Veh2 was stopped s/b on CR 90 at Hwy 12, checked for traffic both directions and started to enter the intersection. Veh2 saw Veh1 coming after it was too late to stop and collided in a side-swipe collision. No injuries.

Trespassing Complaint

Oct 21 5300 block Sunset Lane, Independence. Caller reported a 34-year-old female was told to stop coming over and she continued to come over at all hours of the day. No Trespassing Notice was left with the female's father, advising the female would be charged with trespassing should she go over in the future.

Crash

Oct 22 1:09 p.m. CR 11/ Lake Rebecca, Independence. Motorist was e/b on CR 11, over corrected her vehicle when caught on ice that was accumulating on the road; ended up in the ditch and struck a power pole. Motorist was wearing her seatbelt and both airbags deployed. Vehicle was towed from the ditch, no injuries.

Barking Dog

Oct 24 10:31 a.m. Main Street / Howard Ave. Maple Plain Officer responded to a complaint of a barking dog. Saw several people out for walks enjoying the nice day with their dogs. Did not hear any barking outside of what would be normal for dogs seeing other dogs outside.

Aircraft Complaint

Oct 24 6:37 p.m. CR 6 / Golf Walk, Independence. Life Link III aircraft flying back to Willmar Hospital from the metro area, reported they had two short bursts of a white laser strike the aircraft. No patients were onboard, and no one was struck with the laser in their eyes. Officer checked area residences and a small private party of adults and group of kids. All denied having any laser pointers or knowing anything about the incident.

PD Crash

Oct 24 CR 92N / Hwy 12, Independence. Motorist advised he was turning n/b on CR 92 from Hwy 12 when a vehicle failed to dim its high beams causing him to divert his eyes while turning. Motorist crossed over the center lane. drove over the railroad tracks and was stuck on the rails. BNSF was notified of the blocked rails. Williams Towing arrived and pulled the vehicle out. BNSF was notified that the tracks were clear. Motorist was warned for Lane Violation, Failure to drive in Correct Lane.

Property Line Dispute

Oct 25 Drake Dr, Independence. Property Owner reported someone removed the dirt and logs off the north end of his property near the airport. Officer found the snowmobile club had brought in a Bobcat to remove the dirt and logs and were inappropriately doing so on private property. The property owner moved his property back. Snowmobile club was advised that they had to have permission from property owners before posting the snowmobile trail across their property. The club president said they will contact owners ahead of time in the future.

Suspicious Act

Oct 25 8:34 p.m. 5000 block Hwy 12, Independence. Caller reported there was something shining from a dumpster behind a business. Officer located a large glass mirror in the dumpster and the building security light was reflecting off it.

Animal Complaint

Oct 26 12:18 p.m. 1500 block Howard Ave. Maple Plain. Dog owner reported another dog bit his dog. Dog owner found no injury or bite, on his dog but the area was tender. Both dog owners were spoken to and advised to keep their distance from one another and to maintain control of their dogs.

Animal Complaint

Oct 26 1:07 p.m. 1500 block Howard Ave. Maple Plain Officer called back for dog owner was threatened with mace. Both dog owners were spoken to. The mace was not used in a threatening way. Dog owner stated he only carries the bear spray for he and his dog's protection and showed the caller and the manager the can and label. Both dog owners were again advised to keep their distance.

Animal Bite

Oct 26 1:20 p.m. 2400 block CR 92, Independence. Fed-Ex driver exited his truck to place a package on the porch and a dog came running at him unprovoked, bit him and punctured his lower leg. Driver has delivered to the residence several times in the past, the dog is aggressive, usually is tethered. Dog was current on rabies vaccination. The

dog owner was given paperwork to fill out for listing his dog as a potentially dangerous dog, Independence ordinances and MN Statutes.

Crash

Oct 28 5:29 a.m. Hwy 12/ Halgren Rd, Maple Plain. Veh2 rear-ended Veh1 when slowing down for the 40-mph speed zone. Veh2 was cited for Follow too Close and his vehicle was towed from the scene. Veh1 was cited for Expired Tabs. No injuries.

Crash

Oct 28 12:32 p.m. CR92S / CR 6, Independence. Veh1 stopped at the stop sign, s/b on CR92 when Veh2 attempted to make a left turn onto CR 92 from e/b CR 6, striking the front of Veh1. Driver of Veh2 cited for Fail to Drive with Due Care.

Suspicious Act

Oct 31 2:31 a.m. 3400 block Ihduhapi Trail, Independence. 911 call received regarding a suspicious vehicle at a remote / closed business that has been burglarized 4 times in one year. The vehicle was stopped and came back as stolen. Arrested and booked into Henn Co Jail, 46-year-old male from Stacy and 52-year-old female from Monticello. Charges pending for Possession of Stolen Vehicle and Burglary Tools.

- Hennepin County Attorney declined to prosecute for possession of stolen vehicle.

Crash

Oct 31 Hwy 12 / Halgren Rd, Maple Plain. Driver of Veh2 stated he was looking down at his radio and did not see traffic slowed/stopped and struck Veh1. Passenger in Veh1 had neck pain and refused EMS. Veh2 was towed from the scene and driver cited for Fail to Drive with Due Care.

159 contacts of citations, verbal and written warnings were issued for traffic and equipment violations
2 citations for 'hands-free'

City of Independence
Revocation of Conditional Use Permit Existing on the Property
Located at 3315 County Road 19 N.

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: December 15, 2020

UPDATE:

City Council considered this item and provided direction to staff to prepare a Resolution revoking the conditional use permit. The resolution is being finalized and will be added to the packet as soon as it is complete.

Discussion:

Last year the City completed its regular compliance review of all conditional use permits in the City. Following inspection of the majority of conditional use permits and after an extended period of time and opportunities were granted to property owners to bring non-compliant properties into compliance, it was recommended that a handful of conditional use permits be considered for revocation. The City Council revoked a number of conditional use permits in February 2019 based on non-compliance or no longer being used by the property owner. The property located at 3315 County Road 92 N. was notified of a hearing for revocation at the February 5th City Council Meeting. The property identification number was mistakenly not included in the revocation resolution. The City identified this error and looked to make a correction at the July 30, 2019 City Council Meeting.

The City Council considered the matter at the July 2019 meeting. The future buyer of the property was in attendance at the meeting and asked the City Council to consider postponing a decision on the CUP revocation. The buyer described his intent to clean the property and bring it into compliance with applicable conditions associated with the conditional use permit. Council discussed the matter and ultimately made a decision to table revocation of the CUP. After a lengthy Council discussion, it was noted that the purpose for tabling the CUP was to allow the buyer and opportunity to consider and make application for an Interim Use Permit. The Interim Use Permit would allow a reasonable public process to be authenticated and relevant current details of the business to be considered by the City.

The purchaser of the subject property, Vincent Velie, made an application to the City in October of 2019 for an Interim Use Permit. The City reviewed and processed the IUP. The Planning Commission considered the IUP in February 2020 and were unable to pass a motion to approve nor deny the application. Ultimately, the IUP was withdrawn by the applicant before City Council consideration on the matter.

At the request of Mr. Velie's Attorney, the City inspected the site in April 2020. The City

prepared a letter with the findings of the inspection. A copy of the inspection letter is attached to this report. Mr. Velie's Attorney has also provided the City with a list of equipment and vehicles on the property that Mr. Velie does not use in his business. The City has also received several additional letters or correspondence from neighboring property owners relating to the use of the property in 2019 and 2020.

In addition to the inspection made by staff, West Hennepin Public Safety has been called to the property for several additional complaints. Mr. Velie's Attorney has prepared an additional letter to the City relating to a concern addressed by WHPS on June 26th, 2020. It should be noted that WHPS had visited the site prior to this incident and had given the owner a verbal warning to discontinue burning on the property.

Recommendation:

City Council has directed staff to prepare a resolution revoking the conditional use permit based on the findings discussed over the course of two meetings and written in the attached resolution. RESOLUTION No. 20-1215-03 is attached for Council consideration.

ATTACHMENTS: **Original Conditional Use Permit**
 RESOLUTION No. 20-1215-03



RESOLUTION OF THE
CITY OF INDEPENDENCE
HENNEPIN COUNTY, MINNESOTA

RESOLUTION NO. 20-1215-03

RESOLUTION REVOKING CONDITIONAL USE PERMIT

WHEREAS, the city of Independence (the “City”) is a Minnesota municipal corporation under the laws of Minnesota, and;

WHEREAS, at all relevant times, the Property in the City located at 3315 County Road 92 N (PID # 09-118-24-34-0004) (the “Property”) has been zoned Agricultural under the City’s zoning code, and;

WHEREAS, at all relevant times, the City’s Agricultural zoning has not permitted operation of a commercial landscaping, irrigation and snowplowing business at the Property, and;

WHEREAS, in 1994, the then-owner of the Property received a conditional use permit (“CUP”) pursuant to now-repealed and replaced City of Independence Ordinance Number 88 (“Ordinance 88”), and;

WHEREAS, the CUP was issued by Resolution 94-1025-24 approved on October 25, 1994, and;

WHEREAS, at its regular meeting on December 2, 2020, the City Council directed staff to prepare a resolution revoking the CUP.

BACKGROUND

WHEREAS, Ordinance 88, Section 15A.5 provides:

A business which was in existence and operating as of January 1, 1992, which charges a fee for goods and/or services, which is operated by a person who occupies the premises on which the business is located as their principle residence, which is presently not in conformance with this [zoning] ordinance, and against which no action has been taken by the city attorney or zoning administrator to bring it into compliance, may be granted a conditional use permit to operate as a Lawful Nonconforming Use under this section provided.....

WHEREAS, by its terms, Ordinance 88 provided a mechanism by which certain businesses operating unlawfully in the City as of 1992 could receive conditional use permits rendering such businesses lawful nonconforming uses;

WHEREAS, City officials refer to Ordinance 88 as the “amnesty ordinance;” and

WHEREAS, Ordinance 88 subjected conditional use permits issued thereunder to certain requirements, including:

- Section 13A.5(d)—(Accessory Structures) Accessory structures both in existence and used in connection with the business as of January 1, 1992, may be allowed;
- Section 13A.5(q)--- (No Change or Increase in Operations) No business granted a permit shall change the type of operations beyond that specifically approved at the time the permit is granted;
- Section 13A.6--- If a business ceases to operate for a year or more, the permit issued under this ordinance shall terminate;
- Sections 13A.7 and 14—The City may impose additional conditions, requirements or restrictions on any conditional use permit issued under this ordinance to protect the rural residential or agricultural character of the neighborhood, or to protect the best interests of the surrounding area or community as a whole;
- Section 15.1—The use shall not “adversely affect the health, safety, morals, and general welfare of occupants of surrounding lands;”
- Section 15.2--- The use shall not “have a detrimental effect on the use and enjoyment of other property in the immediate vicinity...”, and;

WHEREAS, the CUP issued for the Property expressly incorporated Ordinance 88, which remains on file with the City, and the foregoing requirements, and;

WHEREAS, in order to implement the requirements of Ordinance 88, the CUP included and incorporated a hand-written site plan depicting the allowed buildings and other improvements to the Property, and allowed locations for certain business activities on the Property, and;

WHEREAS, the CUP allowed a landscaping, irrigation and snowplowing business as a legal nonconforming use, and;

WHEREAS, the CUP specified a number of conditions in addition to those listed in Ordinance 88, and;

WHEREAS, the City gave written notices of its intention to consider revocation of several conditional use permits primarily issued under Ordinance 88, including the CUP, at its regular meeting in February, 2019, and;

WHEREAS, among other reasons for potential revocation, the notices identified cessation of business for more than one year, and;

WHEREAS, the then-owner the Property to whom the whom the City’s notice was directed did not appear at the February meeting, nor asserted that the business remained in operation, nor otherwise contested revocation of the CUP, and;

WHEREAS, while a resolution revoking several other conditional use permits was adopted at the February, 2019 meeting, due to an administrative error such resolution omitted the CUP and another conditional use permit that staff had intended to present for revocation, and;

WHEREAS, the City gave additional written notice to the then-owner of the Property that it would again consider revocation of the CUP on July 30, 2019, and;

WHEREAS, at its regular meeting on July 30, 2019, the City Council considered revocation of the CUP due to non-use and non-compliance with its conditions and requirements, and;

WHEREAS, the July 30, 2019 meeting was cablecast and recorded, and a video recording is available at: <http://108.161.85.114:8181/CablecastPublicSite/show/53191?channel=1>, and;

WHEREAS, Vincent Viele (“Viele”) and his legal counsel appeared at the July 30, 2019 meeting and were permitted to participate and give testimony, and;

WHEREAS, at the meeting, City Council members noted the existence of a lengthy history of neighbor complaints about the Property, and;

WHEREAS, Viele’s legal counsel represented that Viele had only very recently purchased the Property, and;

WHEREAS, Viele’s counsel explained that Viele had previously operated his business from a different residential property in the City, but that approximately 2 years earlier Viele had been advised that the business could not be lawfully operated from that location, and;

WHEREAS, Viele’s counsel further explained that Viele had rented commercial property in the neighboring City of Delano to operate his business but that the rent was high, and;

WHEREAS, Viele’s counsel indicated that neither the seller of the Property nor the seller’s agent had told Viele about this pending matter, but that Viele had heard a rumor about possible termination or revocation of the CUP the week prior to the July 30, 2019 City Council meeting, and;

WHEREAS, Viele’s counsel indicated that after his client learned of this matter, counsel contacted the City administrator, Mark Kaltsas, who explained that there was a lengthy history of alleged violations of the CUP, and;

WHEREAS, Viele’s counsel indicated that he was dismayed to find that copies of prior complaints or concerns about the Property and CUP were not included in the Council meeting packet for the July 30, 2019 meeting, and;

WHEREAS, at the meeting, City Council members indicated that the history of community complaints is well known to the prior owner of the Property, and;

WHEREAS, complaints received by the City about the Property are not all written and, in any event, the City did not anticipate opposition to revocation of the CUP since the prior owner did not appear at the February, 2019 meeting and the City was unaware of subsequent conveyance of the Property, and;

WHEREAS, on information and belief, Viele purchased the Property by contract for deed after the February, 2019 meeting but before the July 30, 2019, and;

WHEREAS, at the meeting, Viele's counsel indicated that, based on his conversation with Mr. Kaltsas, he believed the primary complaint about the Property was its "messy condition;" and

WHEREAS, Viele's counsel indicated that Viele had gained access to the Property two weeks prior to closing in order to start cleaning-up the Property, and;

WHEREAS, Viele's counsel indicated that Viele's clean-up of the Property included removal of six (6) 20 yard dumpsters of "stuff," and that the Viele had paid approximately \$3000 in labor costs and \$2400 in dumping fees to "get rid of that garbage;" and

WHEREAS, Viele's counsel asserted that the CUP allows Viele's business because he operates "the same business, landscaping and snowplowing;" and

WHEREAS, during the meeting, Council member Spencer noted the CUP would only permit Viele to operate a landscaping, irrigation and snowplowing business without expansion or modification, and Council member Spencer asked how this would be consistent with Viele's operation of a tree service or tree trimming business, and;

WHEREAS, in response, Viele's counsel indicated that Viele's tree service business is not a different or expanded business activity and is merely ancillary to his landscaping business, and;

WHEREAS, Viele's counsel further explained that Viele's business activities include no on-premises employees because laborers are contracted and they go directly to job sites, and that Viele stores the following equipment at the Property which he then moves to and from job sites:

- 5 trucks
- 2 skid loaders
- an excavator, and
- a wood chopper.

WHEREAS, the Minnesota Secretary of State identifies Vincent Viele, III as the registered agent for Tall Timber Tree Experts, LLC ("Tall Timber"), and the Property is listed as the registered agent's address, and;

WHEREAS, Tall Timber maintains a website: <https://www.472tree.com/about-us>, and;

WHEREAS, while the Tall Timber website advertises 480 River Road, Delano MN as its place of business, Viele is also operating Tall Timber on and from the Property, and;

WHEREAS, the Tall Timber website advertises "tree care, lawn care, and snow removal" services, however, at all dates relevant hereto including presently, the main page on the Tall Timber website states: "Tall Timber Tree Experts is a tree company, specializing in removing and trimming trees;" and

WHEREAS, the Tall Timber website includes, at all dates relevant hereto including presently, a "Gallery" with 57 pictures of the business's services, and all such pictures show tree trimming or removal, or stump removal, and none show landscaping or snow removal operations, and;

WHEREAS, at the July 30, 2019 meeting, several City Council members commented on the prior-owner's refusal to allow inspections as required by the CUP, and other violations of the CUP, and;

WHEREAS, after deliberation and input from Viele and his counsel, the City Council unanimously decided to amend the proposed resolution (which would revoke two conditional use permits) to remove the Property, and tabled consideration of revocation of the CUP to allow staff inspection of the Property or to allow Viele to seek a new interim use permit with conditions relevant to his current operations, and;

WHEREAS, by application dated September 26, 2019 ("Application"), Viele requested an interim use permit to allow operation of a: "Landscaping/tree company vehicle and equipment storage Plow service (sic);" and

WHEREAS, Viele submitted the required application fee on or about October 16, 2019, and;

WHEREAS, after submitting the Application, Viele or his legal counsel repeatedly requested extension of the City's time for action on the Application under Minnesota Statutes, Section 15.99, which requests and approved extensions are on file with the City, and;

WHEREAS, by e-mail on April 15, 2020, Viele's legal counsel withdrew the Application, and;

WHEREAS, both during the nearly seven months that the Application was pending and after withdrawal of the Application, Viele's counsel and the City attorney exchanged calls, e-mails and correspondence about the CUP, and;

WHEREAS, the communications between counsel included discussion about whether Viele's activities on the Property comport with the CUP and whether the Tall Timber business is authorized by the CUP, and;

WHEREAS, by letter dated March 23, 2020, Viele's legal counsel responded to an e-mail from the City attorney questioning whether Viele's business activities exceed or vary from those allowed by the CUP, stating:

[Viele] has removed no less than 20 dumpsters full of junk and debris, including large amounts of junk that was unrelated to the business conducted pursuant to the CUP, including sinks, stoves and similar objects that were strewn about the Property. He is also completing a major renovation of the house, which was in very poor shape, and improving the landscaping and general appearance of the Property.

WHEREAS, the March 23, 2020 letter from Viele's counsel also included the following attachment:

**Inventory of landscaping, irrigation, and snowplowing equipment
Stored on the property located at 3315 County Road 92**

2 bobcats and attachments

Ditch witch “mini skid”
Excavator
Wood-chipper
L9000 Dumpster truck
L9000 Grapple truck
Chevy 3500
Chevy 2500 x2
Ford F-350
Salt spreader in back of F-350
Goose neck trailer
Bobcat trailer
Tandem axel trailer
Tri axel trailer
Single axel trailer
Nifty lift 64
Snow plows
Ram rod
Mark mowers

WHEREAS, the list of equipment stored on the Property indicated in the March 23, 2020 letter from Veile’s counsel materially differs from, and is much more extensive than, the list of equipment provided by Viele’s counsel at the July 19, 2019 Council meeting, and;

WHEREAS, on March 26, 2020, City administrator Kaltsas inspected the Property from his vehicle (in recognition of COVID restrictions), and;

WHEREAS, by letter dated July 27, 2020, City administrator Kaltsas noted his observations about conditions at the Property that violate, or appear to violate, specified requirements in the CUP, as follows:

Condition #2b. – The Applicant must plant approximately 200 feet of conifers along the south and west boundary lines, as shown in the attached diagram. The trees must be placed on 10 foot centers and must be at least 4 feet tall when planted. Planting along the west boundary line shall be completed by June 1, 1995. The Applicant shall maintain and replace the trees as necessary at all times that the conditional use permit is in effect, in order to provide the screening required by Section 13 A of Ordinance No. 88.

Condition #2c. – All business-related vehicles and equipment must be stored indoors or consolidated in the area near the barn, as shown on the attached diagram [referring to the incorporated site plan].

Condition #2k. – The business operation shall not be conducted in a manner that, in the determination of the city council, unreasonably interferes with the neighboring property owners’ peaceable enjoyment of their property.

WHEREAS, Kaltsas’s letter also indicates that three (3) detached accessory buildings were observed in the southwest corner of the property which are not included on the CUP’s site plan, and for which the City has no record of approving building permits, and;

WHEREAS, by letter dated October 5, 2020, Viele's legal counsel responded by providing a hand-drawn plan showing newly planted trees to address the violation of Condition #2b, and;

WHEREAS, the letter from Viele's counsel indicates that Kaltsas's observation of equipment stored outside designated areas may be premised on the allegedly faulty assumption that on-site equipment is utilized for Viele's business, and the letter includes the following:

List of vehicles and equipment that are not used in Mr. Velie's business

Chevrolet 1500
Chevrolet 2500
Pontiac Firebird
Jeep CJ7
Roadster
Two 22' enclosed trailers for snowmobiles and four-wheelers
Car trailer for collector cars
One 14' enclosed trailer
Three lawn trailers
One mini skid steer
Various Bobcat attachments (post hole auger, forks, buckets of different sizes)
Log splitters
Lawn mowers
Three Snowmobiles
Three 4-wheelers
Five hunting and fishing boats and trailers
One go-cart

WHEREAS, the letter from Viele's counsel disputes that the business annoys neighbors or interferes with use and enjoyment of their properties, stating that all business activities take place off-site, and stating that:

[i]f neighbors have heard any equipment-related or other noise since Mr. Velie bought the Property, that is almost certainly noise relating to non-business activities on the Property, and specifically noise from the very extensive amount of work that has taken place to improve the Property, including both the house and the land.

and;

WHEREAS, the letter from Viele's counsel indicates that the three (3) accessory buildings not contemplated by the CUP's site plan were installed by the prior owner and are not used by Viele in relation to the business, and;

WHEREAS, the letter from Viele's counsel claims that Viele has removed "30+ 20-yard dumpsters full of junk and debris," and claims that Viele has removed "many junk vehicles," and;

WHEREAS, by letter dated November 4, 2020, Viele's counsel stated:

Finally, we want to provide you with additional information regarding Mr. Velie's ongoing investment in and efforts to improve the Property. In my October 5 letter I described many of the larger projects that have been undertaken on the Property, and I can now tell you that those projects have entailed an investment to date of over \$347,000. A number of photographs depicting current conditions on the Property are attached as Exhibit 2, and those photographs amply demonstrate that what was a junk-strewn piece of land when Mr. Velie bought it is now a beautiful property that is an asset to the community.

WHEREAS, upon due notice to Viele, on December 2, 2020 the City Council took up consideration of revocation of the CUP from the table, and;

WHEREAS, due to COVID, the December 2, 2020 meeting was conducted virtually via Zoom, the meeting was cablecast and recorded, and a video recording of the meeting is available at: <http://108.161.85.114:8181/CablecastPublicSite/show/54805?channel=1>, and;

WHEREAS, Viele and Viele's legal counsel attended the meeting and were permitted to give testimony, and;

WHEREAS, a neighbor who has lived adjacent to the Property since before 1994 recounted the lengthy history of problems with and complaints about the Property and business activities at the Property, and noted that such problems had not improved since Viele's acquisition, and;

WHEREAS, the neighbor also asserted that, by operation of law under Ordinance 88, the CUP had terminated because the use had been discontinued for more than one (1) year, and;

WHEREAS, at the conclusion of the discussion, the City Council unanimously passed a motion to direct staff to prepare a resolution revoking the CUP to include the following findings:

- Tall Timbers does not conform to the original specifications in the CUP;
- business activities have been expanded or intensified;
- three (3) buildings not allowed by the site plan attached to the original CUP have been added to the Property, and;
- business operations at the Property interfere with the reasonable use and enjoyment of surrounding properties by their owners.

FINDINGS, CONCLUSIONS, AND ORDER

NOW, THEREFORE, BE IT RESOLVED, by the City Council that the recitals above constitute findings.

BE IT RESOLVED FURTHER THAT, the City Council makes the following additional findings or conclusions:

1. Prior to Viele's purchase of the Property, business activities at the Property had ceased for more than one (1) year thus terminating the CUP under the terms of Ordinance 88.
2. Tall Timber is a tree service business. The CUP does not authorize a tree service business as a lawful nonconforming use of the Property.

3. Assuming, arguendo, that a tree service business is authorized by the CUP, Viele represented that as of July 19, 2019 the business was the “same” as the prior business authorized by the CUP. The business activities, including specifically the equipment stored on-site, has materially increased and intensified since July 19, 2019 and such expansion and intensification of business activities at the Property violates the CUP.
4. Both historically and since Viele’s acquisition, business activities at the Property have adversely affected the general welfare of occupants of surrounding lands, and have had a detrimental effect on the use and enjoyment of other property in the immediate vicinity.

BE IT RESOLVED FURTHER THAT, the City Council orders that the CUP is hereby revoked and that Viele shall cease use of the Property for operation of Tall Timbers or other commercial purposes. The city staff and legal counsel are authorized and directed to take such further steps as necessary or appropriate to effectuate this Resolution.

This Resolution was adopted by the City Council of the city of Independence on the 15th day of December 2020 by a vote of _____ ayes and _____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator