

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, SEPTEMBER 28, 2010 – 7:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL.

PRESENT: Mayor Johnson, Council Members Betts, Spencer, Wallace and Wenck.

STAFF: Clerk-Administrator Hirsch, City Attorney Vose, City Planner Kaltsas, Todd Hagen, Ehlers Associates, West Hennepin Public Safety Director McCoy.

VISITORS: Lance Gyllenblad, Chris Cady, Cathy Sallas, Greg & Jody Gustafson, Bob Selstad.

4. CONSENT AGENDA.

Approve:

- Council Minutes for September 14, 2010.
- Large Assembly Permit request to allow for an Ultimate Frisbee Golf Tournament October 9th and 10th.
- Add “fees subject to change” to our fee schedule.

Motion by Wenck, second by Betts, to approve the consent agenda with a typographical error correction to the minutes. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

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

Nothing added to the agenda.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer: Pioneer-Sarah Creek Watershed Management Commission meeting.

Wenck: Lake Minnetonka Communications Commission Executive Board meeting.

Wallace: Nothing to report.

Betts: Nothing to report.

Johnson: Governors debate, Met Council Land Use Advisory Committee meeting, League of Minnesota Cities Fiscal Futures Policy Committee meeting, Active Living Hennepin County quarterly partnership meeting, Senior Community Services Board meeting, Community Action Partnership of Suburban Hennepin Board meeting, Orono Schools Remodeling Open House, senate district candidate debate.

Hirsch: Nothing to report.

7. DIRECTOR RAY MCCOY – WEST HENNEPIN PUBLIC SAFETY AUGUST 2010
ACTIVITY REPORT.

McCoy summarized the August 2010 activity report. He noted there was a shooting complaint in the City and two people were cited for recklessly shooting. Night to Unite went well in both Independence and Maple Plain. The vacation and comp time for WHPS staff is under the allowed carry-over amount. WHPS received a state grant for two squad car cameras.

Johnson asked what caused the recent car accidents on Highway 12 at Nelson Road and County Road 6 in Orono.

McCoy responded the accident at Nelson Road was caused by driver error and the cause of the accident on County Road 6 is still under investigation.

8. EHLERS & ASSOCIATES, TODD HAGEN - APPROVAL OF RESOLUTION NO. 10-0928-01
AWARDING THE SALE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES
2010A, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$855,000; FIXING
THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND
DELIVERY; AND PROVIDING FOR THEIR PAYMENT.

Hagen stated the bond sale bids were opened in the morning. The City received two bids. The lowest bid was from United Bankers Bank in Bloomington. He handed out a report about the two bids and discussed it with the Council. The bids the City received were a 3.02 percent interest rate and a 3.24 percent interest rate. The interest rates start low and become larger in the later years of the bond. He noted the projections for the assessments before the bidding was 3.6 percent. Hagen stated the bid was very low. The Council will need to decide what the special assessment interest rate will be. Kennedy and Graven prepared a bond resolution of the Council's approval.

Motion by Wenck, second by Spencer, to approve Resolution No. 10-0928-01. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

9. SET ASSESSMENT HEARING FOR THE LINDGREN LANE/INDEPENDENCE ROAD
SEWER PROJECT.

Hirsch stated the City Engineer discussed holding the hearing Nov. 9, however that would not give residents as much time to pay off their assessment before the City certifies it to the County on Nov. 30. Staff recommends holding the assessment hearing on Oct. 26.

Johnson stated he would prefer to have the assessment hearing on Nov. 9 so that more of the project would be complete and the City would have a better idea of the total cost. He noted the City Planner suggested holding an open house on the project for residents before the assessment hearing.

Motion by Betts, second by Wenck, to hold the Lindgren Lane/Independence Road sewer project assessment hearing at 8 p.m. on Nov. 9 and to direct staff to hold an open house on the project before the assessment hearing. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

10. CATHERINE SALLAS, 8420 PIONEER CREEK ROAD (PID# 20-118-24 34-0001) MINOR SUBDIVISION TO CREATE A RURAL VIEW LOT. RESOLUTION NO. 10-0928-02.

Kaltsas stated the applicant is proposing to create a second buildable lot using the provisions set forth for rural view lots in the City's zoning ordinance. The City recently updated the provisions of the rural view lot section of the ordinance. The applicant is proposing to subdivide this lot based on the recent changes to the ordinance. The zoning ordinance allows the subdivision of a property in the agriculture zoning districts in accordance with the attached ordinance. The minimum lot size is now based on a minimum 40 acre lot size or an original quarter-quarter section which has not been further subdivided. The proposed property is 39.41 acres including the right of way along Pioneer Creek Road. The property appears to be an original quarter-quarter section with the exception of the northeast corner. The northeast corner of the property has been impacted by the access to the property to the north. While there has been a small piece of this property taken for access, there has not been a previous subdivision of this property for the purpose of creating another lot. Further consideration and interpretation of the newly created provision for determining rural view eligibility will need to be considered.

Kaltsas stated staff has worked with the applicant to create a buildable parcel that fits into the surrounding area with minimal impact on the surrounding properties. The proposed subdivision would create a buildable area to accommodate a home site that would fit with homes in this area while maintaining the required setbacks. The driveway for both parcels could be shared using the existing driveway. There is also adequate space and upland adjacent to Pioneer Creek Road to accommodate a new driveway access for the proposed rural view lot. If the driveway is to be shared, a driveway easement will be required for the existing property. The proposed property will need to be able to accommodate a primary and secondary on-site septic system. The applicant has provided the City with a soil and percolation report that indicates there is adequate space to accommodate both required sites. In addition to all other criteria, this lot is subject to the provisions of the shoreland overlay district. The shoreland overlay applies to property within 300 feet of the unnamed tributary (Robina Creek). Any new structures on the proposed rural view lot will need to meet the required setbacks of the shoreland ordinance. The newly created parcel will be required to pay the City's Park Dedication requirement. There were questions pertaining to the driveway access for the new lot and what would happen to the rural view lot. The Planning Commission recommended approval of the proposed subdivision.

Johnson asked why residents were concerned about the placement of the new parcel's driveway.

Kaltsas stated a resident was concerned about a driveway directly across from her property.

Johnson noted dividing up a 40-acre parcel means the owner will no longer be eligible for the Ag Preserve Program. He asked staff if that was discussed with the applicant.

Kaltsas stated if the ownership of the two parcels remains the same the properties can stay in Ag Preserve.

Johnson noted there are limits, based on acreage, to the number of horses allowed on a property.

Vose stated shared driveways are common in the City. The shared driveway would be located entirely on one property, which means the City must ensure there is an easement that addresses maintenance.

Motion by Wenck, second by Betts, to approve Resolution No. 10-0928-02. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

11. APPROVAL OF ORDINANCE NO. 2010-03, AMENDING CHAPTER 5 – RELATING TO TEMPORARY SIGN USAGE.

Kaltsas stated before the Council is a draft text amendment to the City Zoning Ordinance pertaining to off premise signs. Staff has prepared a draft ordinance revision which attempts to address the comments, concerns and direction provided by the Planning Commission. The proposed amendment would revise the current ordinance to permit off-premise temporary signs in all districts. The definition for institutional has been updated to include non-profit service organizations. A clearer definition of institutional has been provided in the draft. The signs would be permitted off-premise with the property owner's permission. The signs would be limited to a maximum number of 3 events per 12 month period. The current ordinance limits the number of temporary sign permits to no more than three per 12 month period. The maximum size of the signs would be 24 square feet. As already required in this section of the ordinance, this sign ordinance will require a permit from the City. If adopted staff will prepare a permit for a temporary sign that includes nominal processing fees and an escrow payment to ensure removal.

Johnson asked how "sign" is defined in the ordinance, specifically if the frame for the sign is included in its dimensions.

Kaltsas responded the frame for a sign is not part of the square footage of the sign. A sign is defined in another part of the City's ordinances.

Betts asked if there are any signs in the City that are not in compliance with proposed ordinance.

Kaltsas responded there are signs in the City that do not meet the ordinance requirements. Those signs would be grandfathered in and if changes were made to the signs they would need to be brought into compliance.

Johnson asked about the proposed requirement that the temporary signs be for institutions located within the City.

Kaltsas responded the proposed ordinance would prohibit putting a sign in Independence for an event taking place in another municipality.

Spencer stated the Planning Commission thought that if an event is being held in another community, then the signs should be located in that community.

Johnson noted there have been several signs in the past located on Highway 12 in Independence that advertised events in Delano.

Vose suggested a change to the proposed ordinance so that it specifies how many events may be advertised per year and on what properties.

Johnson responded the language should mean that one institution could have signs for three separate events.

Kaltsas added each event is limited to one sign.

Wenck asked if the Polo Club falls into the definition of institution.

Kaltsas responded that it does.

Wenck noted the Polo Club has six events. He asked why the City would limit the number of events to three.

Kaltsas responded the number of events was limited to three in a twelve-month period because there are other ordinances that have a limit of three signs. He noted the proposed ordinance limits the amount of time an off-premise temporary sign can be in place.

Johnson noted the Polo Club sign is different because it is a seasonal sign, not a temporary sign.

Spencer stated the proposed ordinance does not fit the Polo Club's current temporary sign.

Wenck stated the sign ordinance should address the Polo Club's sign.

Betts and Spencer suggested adding provisions for seasonal signs to address the Polo Club's sign and seasonal apple orchard signs.

Kaltsas noted the City currently has an ordinance that addresses agricultural signs.

Motion by Wenck, second by Spencer, to direct the Planning Commission to further discuss the proposed ordinance revision and address seasonal events and the Polo Club signage. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

12. APPROVAL OF ORDINANCE NO. 2010-04, AMENDING CHAPTER 5 – RELATING TO RETAIL SALES OF AGRICULTURAL AND HORTICULTURAL PRODUCTS GROWN ON THE PREMISES BY A PERSON WHO OCCUPIES THE PREMISE AS A PRINCIPAL RESIDENCE.

Kaltsas stated staff has prepared a draft ordinance revision of the City Zoning Ordinance pertaining to Conditional Use Permits for retail sales of agricultural products. The proposed amendment would revise the current ordinance to permit retail sales as an accessory use in the agriculture district provided that the applicant apply for and receive approval from the City. The requirements will remain the same as in the current version of the ordinance. In the Agriculture Zoning District retail sales of agricultural products grown on the premise will become a permitted accessory use provided that the applicant apply for and receive approval of the applicable permit. In the Rural Residential District retail sales of agricultural products grown on the premise will remain a Conditional Use Permit. The criteria for granting an administrative permit are the same as for granting a Conditional Use Permit. Following a discussion and further direction by the Planning Commission, the final ordinance will be prepared for consideration and adoption.

Betts asked how the process would work for residents who want to sell agricultural products grown or raised on their property.

Kaltsas explained the applicant would not be required to apply for a Conditional Use Permit and instead would need to apply for an administrative permit from the City. The permit would address the same concerns that were addressed during the Conditional Use Permitting process.

Johnson expressed a concern that the proposed ordinance does not specifically state the permit would be administrative.

Kaltsas clarified the ordinance.

Hirsch suggested changing the ordinance language to specify that the permitting process is administrative.

Spencer stated he would like to see a draft of the administrative application.

Motion by Johnson, second by Wenck, to direct staff to clarify the ordinance language so it specifies the permitting process will be administrative, to create a draft application form and to suggest fees for the administrative permit. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

13. SNOWBIRDS – REQUEST TO NOT BE CHARGED MAINTENANCE FEES FOR SEWER WHILE THEY ARE GONE FOR THE WINTER MONTHS. THOUGHTS AND DIRECTION, IF ANY.

Hirsch stated the City has received several requests from snowbirds to stop sewer billing during the winter months when they are not using their homes.

Betts asked if there are other communities that stop billing for sewer service on vacant properties.

Hirsch stated Maple Plain charges a minimum fee for snowbirds, but their sewer service is metered.

Johnson stated he would only want to allow a lower rate for one quarter.

Wenck stated he does not think the City should allow snowbirds to receive a lower sewer rate while they are away from their homes. He noted the City still has to provide sewer service to residents, even if they are not in their homes.

Wallace expressed a concern about monitoring the vacant homes to ensure that they are not inhabited.

The Council directed staff not to proceed with researching the issue further.

14. SET A WORKSHOP TO DISCUSS ASSESSMENT HEARING OPTIONS.

Johnson stated staff suggested holding a work session to discuss the Lindgren Lane/Independence Road assessments.

The Council decided to hold a work session at 7 a.m. on Oct. 26. Staff will confirm the date once the consultants have been contacted.

15. OPEN/MISC.

October 12 City Council meeting

Hirsch stated there are not many items for the Oct. 12 Council meeting.

Johnson stated he would prefer to have a meeting on Oct. 12 to approve the accounts payable.

16. ADJOURN.

Motion by Wenck, second by Spencer, to adjourn the City Council meeting at 8:45 p.m. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

Respectfully submitted by Christina Scipioni, Recording Secretary