

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, FEBRUARY 10, 2009 – 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, Gyllenblad, Wallace and Wenck.

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

VISITORS: LuAnn Brenno, Ed & Katie Pluth, Chris Cady, John & Cathy Zeglin, Mike Zeglin, Jim & Lynda Franklin, Linnea Johnson, Harry Pool, Ed & Eleanor Kalash, Doug Hoskins.

4. CONSENT AGENDA.

Approve:

- Council Minutes – Jan. 27, 2009.
- Approval of accounts payable for February 2009.
- Approval of Resolution No. 09-0210-04, supporting funding for senior programs (Senior Community Services and WeCan).

**Motion by Wenck, second by Gyllenblad, to approve the consent agenda. All present voted aye.
MOTION DECLARED CARRIED.**

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

Hirsch added an invoice from Carson & Clelland.

Hirsch added a discussion of the Ryan Companies comp plan amendment expenses.

Pool asked to be added to the agenda.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Gyllenblad: MnDOT open house, Council budget workshop.

Wenck: MnDOT open house, Council budget workshop.

Wallace: Council budget workshop.

Betts: Council budget workshop.

Mayor: Meeting at Wayzata City Hall with senators and representatives, St. Paul Mayor's Reception, meeting with Elizabeth Rick for a City Hall Display, meeting with Senior

Community Services executive director, Senior Community Services Finance Committee meeting, WeCan Board meeting, Orono School Board meeting, MnDOT open house, Council budget workshop.

Hirsch: MnDOT open house, Council budget workshop.

7. APPROVAL OF ORDINANCE NO. 2009-01 REZONING PROPERTIES (FRANKLIN HILLS AND JAVAS POINT) FROM AGRICULTURAL TO RURAL RESIDENTIAL.

Kaltsas explained the properties would need to be rezoned in order to be subdivided.

Motion by Gyllenblad, second by Wenck, to approve Ordinance No. 2009-01.

Vose stated the legal descriptions within the ordinance were for the proposed plats. He added that the rezoning would become effective once the plats are filed.

Johnson called for a vote. All present voted aye. MOTION DECLARED CARRIED.

8. APPROVAL OF RESOLUTION NO. 09-0210-01 APPROVING THE FINAL PLAT OF THE JAVAS POINT SUBDIVISION AND DEVELOPERS AGREEMENT SUBMITTED BY JAMES AND LYNDA FRANKLIN.

Kaltsas stated the final plat had some minor changes from the preliminary plat. He explained there were some minor things staff had changed from the preliminary plat. He added that there are some additional conditions in the resolution dealing with the wetland signs.

Johnson expressed concern about a requirement to preserve the tree cover in perpetuity. He suggested requiring a forest management plan instead.

Hirsch explained the condition to require a conservation easement should have been taken out of the resolution.

Kaltsas stated the conservation easement would be taken out of the resolution entirely, with Council approval. He added that the resolution should be changed so that instead of requiring a letter of credit the City would require a security in a form consistent with the development agreement and approved by the City. Kaltsas stated there were still some title comments that needed to be addressed. He suggested adding a condition that the applicant is required to address all title comments made by the City Attorney.

Doug Hoskins, developer's representative, stated he was fine with the change to the letter of credit requirement. He asked what the problems with the title work were.

Vose explained that the City does a plat opinion to make sure that the correct party signs the plat. He explained that for Franklin Hills, there are two mortgagees, which means that the mortgagees would need to sign the plat or the City would have to receive proof that the mortgages have been paid off. Vose stated that the Javas Point title shows that the Oldstads still own the property, which means the City needs to have proof of expiration or termination of the Oldstads' trust and conveyance of the property out of the trust to the ownership of the Franklins.

Hoskins explained that the applicants need to plat signed in order to close.

Vose suggested that the City could sign the plats, but hold the mylars until after closing, thus controlling the filing of the plats.

Motion by Wenck, second by Betts, to approve Resolution No. 09-0210-01 with the following changes:

- **Remove condition number 1.**
- **Change condition number 6 to require a security in a form consistent with the development agreement and approved by the City.**
- **Add a condition that requires the applicant to address all title comments from the City Attorney.**

All present voted aye. MOTION DECLARED CARRIED.

9. APPROVAL OF RESOLUTION NO. 09-0210-02 APPROVING THE FINAL PLAT OF FRANKLIN HILLS SUBDIVISION AND DEVELOPERS AGREEMENT SUBMITTED BY JAMES AND LYNDA FRANKLIN.

Kaltsas stated the resolution should be identical to the Javas Point subdivision resolution.

Betts asked what the park dedication fee would be for the Franklin Hills plat.

Kaltsas responded the Franklin Hills plat park dedication fee would be \$10,957.50.

Betts requested that the park dedication fee be listed on the Franklin Hills resolution as it was on the Javas Point resolution.

Motion by Betts, second by Wenck, to approve Resolution No. 09-0210-02 with the following changes:

- **Revise the conditions so they match the conditions listed on Resolution No. 09-0210-01.**
- **Include the park dedication fee of \$10,957.50 in the conditions.**

All present voted aye. MOTION DECLARED CARRIED.

10. APPROVAL OF RESOLUTION NO. 09-0210-03 TO VACATE A DRAINAGE AND UTILITY EASEMENT THAT WAS CREATED BY THE PLAT OF J. LYNN FARMS 2ND ADDITION.

Kaltsas explained there is a drainage and utility easement on the Franklin Hills property that will need to be vacated in order for the Franklin Hills plat to work correctly.

Vose explained the Franklin Hills plat includes standard drainage and utility easements, which means that the current easement that was created by the plat of J. Lynn Farms 2nd Addition is no longer necessary. Vose added that at the end of the new section of Franklin Hills Road would have a temporary cul-de-sac easement, which would allow for the road to be extended should the property currently zoned agricultural be platted in the future. He explained that the current cul-de-sac at the end of Franklin Hills Road also has a temporary cul-de-sac easement that will go away with the new Franklin Hills plat.

Motion by Wenck, second by Gyllenblad, to approve Resolution No. 09-01-10-03. All present voted aye. MOTION DECLARED CARRIED.

11. APPROVE CARSON AND CLELLAND INVOICE.

Hirsch explained the invoice from Carson and Clelland came too late to include in the packets, so staff is asking for Council approval to pay the invoice.

Motion by Betts, second by Johnson, to approve payment of the Carson and Clelland invoice. All present voted aye. MOTION DECLARED CARRIED.

12. RYAN COMPANY'S COMP PLAN AMENDMENT REQUEST REIMBURSABLE COSTS.

Hirsch stated she had added up what the City had paid consultants so far for working on the Ryan Company's comp plan amendment request. She said the total amount \$21,426.08, which includes the cost for her time as well. Hirsch explained the applicants pay an initial application fee and escrow. She added that at the end of the project, the City bills the expenses back to the applicant.

Johnson asked Brenno if she was satisfied with Hirsch's answer.

Brenno asked when the City would be billing Ryan Company for the expenses.

Hirsch responded that she will be sending out an invoice for the expenses the City has incurred to date.

13. DISCUSSION AND APPROVAL OF SHORELAND ZONING ORDINANCE NO. 2008-03.

Wenck asked if Ox Yoke Lake was in the City.

Johnson responded that the north shore of the lake is in the City.

Wenck stated his next concern was the streams the new ordinance would apply to. He added the streams would be five named in the ordinance. Wenck stated that the State would allow up to 400 square feet for water-oriented accessory structures, but the ordinance would limit it to 120 square feet.

Gyllenblad stated he could not find any restrictions for the size of stairways, lifts and landings within State guidelines, but the proposed ordinance would restrict landings to 32 square feet.

Hirsch stated she would check the landing issue.

Gyllenblad stated he was satisfied with the stream issue as long as the streams affected are only those that are listed in the ordinance.

Hirsch stated a DNR representative told her the ordinance would only apply to streams specifically listed in the ordinance.

Wenck directed staff to research the remaining issues.

Gyllenblad stated that the DNR requirement for structure setbacks is 30 feet, but the proposed ordinance lists 10 feet. He directed staff to research this issue as well.

14. NNG – RESPONSE TO LETTER DATED JAN. 30, 2009.

Vose stated NNG attorneys have contacted him and requested that the City withdraw its letter to PERC. He added that based on his conversations with property owners, NNG was negotiating with them, but the issues had not been settled enough for him to withdraw City's letter.

Johnson expressed his concern that it isn't the City's responsibility to get in the way of negotiations.

Rose Lorsung, representing the Zeglins, stated they had met with NNG regarding the pipeline. She added the Zeglins are still not comfortable with the placement of the pipeline and that NNG has given different information to neighboring property owners. Lorsung stated her clients are trying to have the pipeline routed so that it does not affect the possible commercial development on their property.

Johnson asked what the pipeline route would be.

Lorsung stated that she thought she knew the revised pipeline route, but neighboring property owners had recently showed her a different route. She added that due to this new information, she was unsure what the proposed route would be.

Lorsung and the Council discussed various pipeline routes.

Joe Cade, NNG, stated he understood the City's concerns, but NNG has been working with property owners and will continue to do so. He added that NNG sent the City a letter explaining that it has come to an agreement with all but one of the property owners and is still working with the remaining property owner. Cade stated that NNG believes the City's concern has been met. He stated that if there is an issue with the Linnea Johnson parcel NNG will work with the property owner. Cade requested that the Council withdraw its letter to PERC.

Vose stated that the City's letter has had its intended effect. He added that NNG does have a timeline that it would like to follow. Vose suggested that the Council should decide what meeting it would make a decision.

Wallace stated that the last time the Council met with NNG, it had decided that once all the property owners have signed off on the route. He asked if staff could withdraw the letter once it has heard from all of the property owners and not bring it back before the Council.

Vose responded that he understood what the Council had directed him to do. He stated he didn't feel comfortable making the decision about whether the neighbors were satisfied at this point in the negotiations.

Betts asked if NNG would be able to negotiate with the property owners in two weeks.

Cade answered that he doesn't know what the property owners demands might be, so he isn't sure.

Betts responded the NNG does have agreements with all but one property owner.

Johnson asked Linnea Johnson if she had reached an agreement with NNG.

Linnea Johnson stated she is still in negotiations.

15. OPEN/MISC.

Harry Pool

Pool, resident, expressed concerns about the Shoreland Ordinance. He wanted to know what the hurry was to adopt the new ordinance. He stated he has an objection to some of the things in the ordinance and thinks the ordinance is too restrictive. He suggested that the Council should thoroughly review the ordinance before it is adopted.

Betts asked if the Planning Commission held a public meeting on the Shoreland Ordinance. She added that the DNR requires the certain parts of the Shoreland Ordinance.

Johnson responded the Planning Commission had numerous meetings on the Shoreland Ordinance.

Pool responded that he is concerned that the City's ordinance is more restrictive than the DNR ordinance.

Norm stated it would be a long process before the DNR adopts a new Shoreland Ordinance. He added the City would have to go through another process for updating its Shoreland Ordinance at that time.

Gyllenblad noted that the new Shoreland Ordinance changes the classification of some of the lakes in the City. He added the new ordinance also names streams, which it didn't do in the past.

Wenck stated the DNR has the authority to change the lake classifications, not the City.

Gyllenblad expressed a concern about Lake Robina being a natural environmental lake.

Betts discussed the definition of a natural environmental lake.

Johnson stated the City is currently comfortable with the classification of the City's lakes.

Wenck stated he will not be available to attend the Feb. 24 meeting.

Hirsch stated she would add the Shoreland Ordinance onto the March 10 agenda.

16. ADJOURN.

Motion by Betts, second by Wallace, to adjourn the City Council meeting at 8:40 p.m. All present voted aye. MOTION DECLARED CARRIED.

Respectfully submitted by Christina Scipioni,
Recording Secretary