

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, JUNE 23, 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 and Wenck.

ABSENT: Council Member Wallace, Administrator Hirsch.

STAFF: Recording Secretary Scipioni, Attorney Vose, Planner Kaltsas, Water Resource Coordinator Jochum, West Hennepin Public Safety Director McCoy.

VISITORS: Dale Ledstrom, Mr. & Mrs. Marple.

4. CONSENT AGENDA.

Approve:

- Council Minutes – June 9, 2009.

**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.

Vose added discussion about the City's response to the City of Delano's Comp Plan comments.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Gyllenblad: Three phone calls regarding dust control, one phone call regarding the City's letter to Delano.

Wenck: Lake Minnetonka Communication Commission meeting.

Betts: Nothing to report.

Mayor: Orono Schools retirement gathering, Northwest League of Cities meeting, Active Living Hennepin Communities quarterly partnership meeting, informal meeting with Congressman Paulsen, Community Action Partnership of Suburban Hennepin finance committee meeting, Highway 55 Corridor Coalition meeting, Greater Lakes Food Bank meeting, Ridgeview Hospital open house.

Scipioni: Election certification classes, was accepted into Hamline University's Master of Public Administration program.

7. WEST HENNEPIN PUBIC SAFETY DIRECTOR RAY MCCOY – MAY 2009 ACTIVITY REPORT.

McCoy summarized the May 2009 activity report. He stated WHPS had 82 fewer incidents in 2009 than in 2008. He added that Department responded to a fatal crash on Highway 12 and County Road 92, is investigating numerous thefts from automobiles, identified a suspect in a stolen ATV case, responded to weapons complaints, and assisted with the Liberty Triathlon. McCoy thanked the City of Independence for allowing WHPS to host a police officer training session all day on June 22.

8. PUBLIC HEARING. CRAIG JOCHUM, HAKANSON ANDERSON ASSOC. – STORM WATER POLLUTION PREVENTION PROGRAM (SWPPP) FOR THE YEAR 2008.

Jochum stated as part of the City's SWPPP permit, it is required to hold an annual public hearing in order to obtain comments from the public on the SWPPP. He added that the SWPPP is part of a permitting process that allows the City to discharge its storm water with the goal of decrease as much as possible the number of pollutants. Jochum discussed the six control measures within the plan.

Public Hearing

Johnson asked how long the current SWPPP permit would last before being renewed.

Jochum responded that the City's SWPPP started in May 2006, was revised in 2008 and will run to 2011.

Johnson asked if the SWPPP is for the entire City.

Jochum responded that the SWPPP is for the entire City and is not limited to any watershed district.

Motion by Wenck, second by Gyllenblad, to close the SWPPP public hearing. All present voted aye. MOTION DECLARED CARRIED.

9. DALE LEDSTROM, 1760 COUNTY ROAD 92 (PID 21-118-24-33-0001) REQUEST FOR AN INTERIM USE PERMIT TO PERMIT THE OPERATION OF A FORESTRY BUSINESS ON THE SUBJECT PROPERTY. RESOLUTION NO. 09-0623-01.

Kaltsas stated the applicant requests an IUP to allow him to store up to 15 trucks from his tree-trimming business and tree stumps on his property. He added the applicant would store the trucks and stumps on the rear of his property, where a significant elevation change and trees would limit the visibility of the equipment from other properties and the road. Kaltsas stated staff found the request met the requirements for a CUP and an IUP. He noted the Planning Commission had questions about the IUP. Kaltsas explained that the only way to allow this use on the applicant's property would be to either request a text amendment to the zoning code and then apply for a CUP or apply for an IUP. Kaltsas explained that an IUP is a temporary request and the Planning Commission had requested a 5-year timeframe for the IUP. He stated the Planning Commission also added a setback for the equipment that was consistent with a building setback.

Betts asked if the lower area at the rear of the property was wet.

Kaltsas responded that the lower area is somewhat wet, but the vehicle storage area is not wet.

Betts asked if the applicant would need to bring fill into the site.

Ledstrom responded that some fill would be brought in.

Kaltsas explained that one of the conditions of the IUP is that the applicant would need to apply for a grading permit if the fill meets the City's standards for needing one.

Betts stated she liked the 5-year time limit on the IUP.

Johnson stated he read in the Planning Commission minutes that a real estate agent had told Ledstrom he would be able to store vehicles on his property. He expressed concerns about real estate agents making claims to clients that weren't true.

Ledstrom stated he would not have bought his property had he known that he couldn't run a business out of his home.

Johnson asked if the home neighboring the subject property was on the property line.

Ledstrom responded that the neighboring property owner had written a letter of support for the IUP.

Johnson asked about the traffic that would be generated by the IUP.

Ledstrom explained that he has three employees and that not all of the trucks are in use at the same time.

Johnson asked why the City's annual inspection clause was not added as a condition.

Kaltsas responded that it could be added.

Betts stated she would like the annual inspection requirement to be added.

Johnson stated the IUP should also expire if the applicant sells or terminates the business or sells the property. He added the City should list the acceptable business hours.

Ledstrom expressed a concern that sometimes his employees need to move trucks at night during after a storm.

Johnson stated he would still like the City to have regular business hours listed and have a clause for in case of emergencies.

Gyllenblad expressed a concern about the Council micromanaging small businesses. He noted that the City doesn't micromanage agricultural operations.

Johnson stated he wanted to make sure that all property owners with CUPs and IUPs were treated the same. He asked the applicant about the log storage on the property.

Ledstrom explained that he doesn't cut the logs on his property and does not bring brush on to the property.

Betts asked if the applicant's business was seasonal.

Ledstrom responded that in the winter he often does large projects at golf courses and leaves his vehicles there, which would cut down on traffic in the winter.

Betts asked if the request was consistent with what the City has done in the past.

Vose responded that the City hasn't issued an IUP before, but it has been in the zoning code since 2005. He added that an IUP is the only alternative the applicant has to conduct his business in the agricultural district. Vose stated that CUPs and IUPs are essentially the same, except an IUP does not run with the land, as a CUP does.

Motion by Wenck, second by Betts, to approve the Interim Use Permit, subject to the following findings and conditions:

- 1. The proposed Interim Use Permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.**
- 2. The Interim Use Permit will expire 5 years from its effective date or upon sale of the property or termination of the business, whichever comes first.**
- 3. The outdoor parking and equipment storage area will not exceed 140 feet from east to west and 85 feet from north to south and shall be setback from the north property line a minimum of 30'. The final location if the outdoor parking area shall be approved in the field by the City. The material storage area shall not exceed the area indicated on the plans and shall be limited to a height of 15'. If the applicant exceeds the requirements for filling or grading associated with the development of the parking or storage area, they shall make application for a grading permit from City.**
- 4. No additions or expansions to the designated areas indicated on the approved site sketch shall be permitted without the City's approval of an amendment to the Interim Use Permit.**
- 5. The outdoor parking, equipment and material storage areas shall be kept in a neat and organized fashion so as to reduce any visual nuisances from the adjacent properties or County Road 92. Inoperable equipment or unregistered vehicles shall not be permitted.**
- 6. The applicant shall not remove or damage any existing trees on the property during the development of the outdoor storage area. Any trees removed or damaged during the construction of the outdoor parking or storage areas shall be replaced by a quantity, type and size as directed by the City. To ensure compliance with this condition, the applicant shall fence off the existing trees at their drip line using an orange 'snow fence,' silt fence or similar fence approved by the City.**
- 7. No more than 15 vehicles may be stored on the property.**
- 8. Operation of the vehicles on this property shall not be conducted outside of the hours of 7 a.m. to 7 p.m. Monday through Friday and 8 a.m. to 4 p.m. Saturday except under special circumstances.**

And to approve Resolution No. 09-0623-01. All present voted aye. MOTION DECLARED CARRIED.

10. VIRGIL MARPLE, 7949 COUNTYROAD 11 AND 2825 COUNTY ROAD 11 (PID 09-118-24-22-0002 AND 09-118-24-23-0001), REQUEST FOR A SUBDIVISION TO COMBINE THE TWO (2) EXISTING LOTS INTO ONE (1) LOT (RESOLUTION NO. 09-0623-03) AND A CONDITIONAL USE PERMIT TO PERMIT THE ORIGINAL HOMESTEAD TO BE USED AS A GUEST HOUSE ON THE COMBINED PROPERTY (RESOLUTION NO. 09-0623-02).

Kaltsas stated the applicant requested a lot combination and a CUP for a guesthouse. He stated the applicant will lose some rights on the second home because City Code has limitations on the use of a guesthouse. Kaltsas add the lot combination does not create any setback issues and the criteria for a CUP were met. He stated the Planning Commission had minimal discussion on the request, but did discuss adding additional conditions for the guesthouse and decided against it.

Betts asked if one of the driveways on the combined property would need to be abandoned.

Kaltsas responded that the applicant could keep both driveways, as they were far apart and didn't create a safety hazard.

Betts asked if a condition should be added to limit the number of employees in the guesthouse.

Kaltsas explained that the guesthouse provision in City Code limits who can stay in a guesthouse. He added that employees are only permitted in a bunk house.

Johnson added that the tax code is also very clear on how a guesthouse can be used.

Vose explained that City Code has a provision for a guesthouse and for a bunk house. He added that Code wouldn't allow for a kitchen in the guesthouse, so if the Council wants to allow it, a provision should be added in the CUP.

Wenck noted that the certificate of survey had the wrong acreage on it.

Johnson stated he liked to see the older homes in the community preserved and not torn down.

Marple stated he and his wife will try to restore the original homestead.

Motion by Betts, second by Wenck, to approve the request for a lot subdivision and a Conditional Use Permit for a guesthouse, subject to the following findings and conditions:

- 1. The proposed subdivision for a lot combination meets all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Code.**
- 2. The proposed Conditional Use Permit request meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Code.**
- 3. A kitchen facility shall be allowed in the guesthouse.**

And to approve Resolution No. 09-0623-02 and Resolution No. 09-06-23-03. All present voted aye. MOTION DECLARED CARRIED.

11. OPEN/MISC.

Letter to Delano regarding the Independence Comp Plan

Vose stated staff had composed a letter to the City of Delano in response to its comments on the City's 2030 Comprehensive Plan. He added that the City of Delano had opposed the 2030 Comp Plan because of concerns about the urban commercial area on the western edge of Independence.

Motion by Wenck, second by Gyllenblad, to authorize the Mayor to send the letter to the City of Delano. All present voted aye. MOTION DECLARED CARRIED.

12. ADJOURN.

Motion by Wenck, second by Betts, to adjourn the City Council meeting at 8:23 p.m. All present voted aye. MOTION DECLARED CARRIED.

Respectfully submitted by Christina Scipioni, Recording Secretary