

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, OCTOBER 13, 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: Clerk-Administrator Hirsch, Public Works Director Koch, Attorney Vose, Planner Kaltsas, Engineer Miller.

VISITORS: Bob & Marilyn Hamilton, Eleanor Kalash, Mike Zeglin, Rose Lorsung, Ed & Kathie Pluth, John Zeglin, Brad Spencer, Harlan D. Lewis, Beverly Lawless, John Nieling, LuAnn Brenno, West Hennepin Public Safety Director Ray McCoy, Harry Pool, June Sutton.

4. CONSENT AGENDA.

Approve:

- Council minutes, September 8, 2009.
- Accounts Payable, October 2009.
- Approval of Resolution No. 09-1013-01 Revoking Conditional Use Permit for property located at 2555 County Road 90.

Motion by Betts, second by Gyllenblad, to approve the consent agenda. Ayes: Betts, Gyllenblad, Johnson, Wallace and Wenck. Nays: none. MOTION DECLARED CARRIED.

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

Nothing was added to the agenda.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Gyllenblad: Nothing to report.

Wenck: Lake Minnetonka Communication Commission meeting, West Hennepin Chamber of Commerce meeting.

Wallace: Nothing to report.

Betts: Sensible Land Use Committee conference regarding transportation and light rail, West Hennepin Chamber of Commerce meeting.

Mayor: Northwest League of Municipalities meeting, two Active Living Hennepin Communities meetings, two Community Action Partnership of Suburban Hennepin finance committee

meetings, three Greater Lakes Food Bank meetings, Orono School Board meeting, Association of Metro Municipalities committee meeting, Hennepin County employee Dave Zetterstrom retirement party, Orono Healthy Communities meeting, Wenck Associates finance meeting, League of Minnesota Cities meeting on Improving Local Economies, Met Council regional policy meeting, Minnehaha Watershed District meeting for council members, three funerals for people who had served on local city councils, League of Minnesota Cities Improving Fiscal Futures Committee meeting, Sensible Land Use Committee meeting, Senior Community Services board meeting, Highway 12 ribbon-cutting ceremony in Delano, conference call for the Small Cities Council, Minnehaha Creek Watershed District meeting, ribbon-cutting ceremony for the new water treatment facility in Maple Plain, Maple Plain Fire Department fundraising dinner, West Hennepin Chamber of Commerce meeting.

Hirsch: Meeting with Met Council staff, the City Planner and City Engineer regarding the Comprehensive Plan update, Active Living Hennepin Communities partnership meeting.

7. APPROVAL OF RESOLUTION NO. 09-1013-02 AMENDING THE WEST HENNEPIN PUBLIC SAFETY JOINT POWERS AGREEMENT TO EXTEND THE NOTICE OF WITHDRAWAL FROM 367 DAYS TO 732 DAYS.

Johnson stated the Council had previously referred the extension of the West Hennepin Public Safety Joint Powers Agreement to the Police Commission for action. Since then, the Police Commission voted to recommend extending the notice of withdrawal period from 367 days to 732 days.

Wallace stated he was surprised to see this proposal because when he attended the July 2009 Police Commission meeting, it seemed as though extending the withdrawal period would not be recommended by the Police Commission.

Johnson stated the issue was discussed again at the September 2009 Police Commission meeting.

McCoy stated the City of Maple Plain voted to request extending the withdrawal period to three years and so the Police Commission discussed the issue again at its September 2009 meeting.

Betts stated the Council had already voted to extend the withdrawal period at a previous Council meeting. She stated the Police Commission discussed the three-year extension from Maple Plain and decided to compromise and change the withdrawal period to two years, which the Maple Plain City Council has since approved.

Wallace stated his previous motion was to recommend that the Police Commission discuss a withdrawal period extension, not to actually pass an extension. He added the Police Commission did have a discussion in July and he left the meeting with the understanding that the withdrawal period would not be extended. He stated he could not attend the September Police Commission meeting and didn't know the issue was back on the agenda.

McCoy stated the September Police Commission agenda had an item that McCoy would report back on any discussions with Maple Plain regarding the withdrawal period and adding additional community members to the Police Commission. McCoy stated during the meeting, the City of Maple Plain brought their resolution to extend the withdrawal period to three years.

Gyllenblad stated two years ago the City Attorney reviewed the legal requirements for how Police Commissioners are appointed and found that the City Council must be the approving body, not the Mayor. He added the current Joint Powers Agreement gives sole discretion to the Mayor.

Vose stated he remembered an issue about how commissioners were appointed, but couldn't remember what advice was given.

Gyllenblad responded that Vose had told the Council that the Council had the sole authority to appoint Police Commissioners.

Vose stated the Joint Powers Agreement dictates that the Mayor is automatically one of the members of the Police Commission and the Council decides who the other member is.

Gyllenblad asked if the two-year withdrawal period would necessitate a two-year budget.

McCoy responded that the City of Maple Plain had suggested a two-year budget in order to maintain a stable police force for their city.

Gyllenblad stated he believed the resolution was contingent on a two-year budget.

Johnson responded that was not his understanding.

Motion by Johnson, second by Betts, to approve Resolution No. 09-1310-02.

Wallace stated the City has not had a problem with the 367-day contract. He added that because the current contract term has served the community well, he does not want to change the withdrawal period. Wallace stated his concern with extending the withdrawal period is that the Council does not know what situations could arise in the future, so he will choose not to vote in favor of the resolution.

Wenck stated he will vote against the motion because he believes it inhibits the Council's ability to be fiscally responsive to the community, especially long term.

Johnson asked if according to the Joint Powers Agreement the withdrawing party is responsible for all the unemployment and other issues and that the Agreement does not have a clause for joint dissolving.

McCoy stated the Agreement does not have a distinction between withdrawal and dissolution, unlike some other communities. He added that according to the Agreement, if both parties agree to terminate the agreement, the 367-day waiting period does not apply. He stated a long-term agreement promotes the stability of the police department.

Johnson stated the withdrawal and dissolution requirements in the Agreement should be reviewed.

Brenno, resident, stated the one-year withdrawal period has served the City well until recently, when the Council has often brought up the issue of withdrawing, despite hearing resident input against doing so. She added that extending the withdrawal period would allow the issue to be taken off the table for a little while, giving the officers and citizens more stability.

Wallace responded that at the July 2009 Police Commission meeting, the Commission discussed the negative effects of being stuck in a contract for two years. He noted that in 10 years, the relationship between West Hennepin Public Safety and the City could be completely different, and the City would still have a two-year commitment.

Pool, resident, asked if the WHPS officers would receive 367 days of severance pay if the contract was terminated.

McCoy responded that Pool's statement was incorrect.

Pool stated the one-year contract served the City well. He added he was Police Chief in Independence for 8 years. He stated he thinks the issue about withdrawing from WHPS is not about the quality of the officers, but the cost. Pool stated a recent article written by City Council candidates put the additional cost of WHPS versus the Hennepin County Sherriff's Office at \$50 per person, but there are 3,700 residents in the City. Pool expressed displeasure at the way the May 12, 2009 City Council meeting was conducted.

Johnson asked Pool to keep his comments to the current motion.

Pool asked some Council Members to apologize to the Council Members who sent a request for a quote to the Hennepin County Sherriff's Office.

Motion by Wenck, second by Wallace, to call the vote. Ayes: Betts, Gyllenblad, Johnson, Wallace and Wenck.

Johnson called for a vote on the motion. Ayes: Betts, Johnson. Nays: Gyllenblad, Wallace and Wenck. MOTION FAILS.

8. DISCUSSION OF THE SCOPING STUDY FOR THE PROPOSED COMMERCIAL AREA UTILITIES LOCATED IN THE WESTERN SECTION OF THE CITY OF INDEPENDENCE.

Wenck asked if Ryan Companies had seen the scoping study.

Hirsch responded Ryan Companies had seen the scoping study, but had no position on it.

Miller stated the scoping study was done to preliminarily identify ways to provide sewer and water services to the proposed urban commercial district. The study was done largely because the Met Council had several questions about the new zoning district. The cost of the study will be reimbursed to the City by Ryan Companies. Miller stated that because the City had already had discussions with the City of Delano about providing sewer and water service, that option was not a part of the study. The study looked at the feasibility of providing service on site or receiving service from the City of Greenfield.

Johnson asked if the City of Greenfield had been contacted regarding this study.

Miller responded staff sent a letter to the City of Greenfield and their Council discussed the issue at a meeting. He added the Greenfield Council had concerns with Independence using too much capacity and limiting their ability to expand.

Johnson asked if Three Rivers Park District had been contacted.

Miller responded Three Rivers had not yet been contacted.

Miller stated the cost to bring water services to the site from Greenfield would be about \$1.75 million. He stated this option is probably not a good choice because it would not provide good fire flows without a booster station and the large amount of water sitting in a long pipe could cause water quality issues.

Johnson asked what size pipe would be used.

Miller responded a 6 or 8-inch pipe would be used because anything larger would create fire flow issues. He stated the City could provide water service on site using a deep well. Storage options would be a ground storage reservoir with pumps to give adequate fire flows. He stated this can be a good, low-cost option, but it means the City is dependent on power to fight fires unless it has a back-up generator. The other storage option would be an elevated storage tank, but water volume in the tank can be an issue because if the water is not moving often enough icing can become a problem.

Johnson asked if Delano has any issues, like Maple Plain, with filtering for radon.

Wallace responded Delano has a filtration system, too.

Miller responded if the issue were studied further, the City would need to look at what the water source for the well would be and what types of treatment would be necessary.

Miller then discussed the wastewater service options. There are many types of options available for treating wastewater on site. The two means of disposal would be spray irrigation or drain fields or injection systems. He noted with the rural nature of nearby properties, spray irrigation looks attractive; however the City would want to acquire long-term leases with property owners for the spray irrigation. Miller stated the likelihood of finding a surface water discharge site would be difficult. Miller stated the least expensive option would be to connect to the City of Greenfield; however that option does not take into account Greenfield's concerns. There are different options for the route of the pipe, with the least expensive option being the route through Lake Rebecca Park Reserve.

Johnson stated if the City asked Three Rivers Park District for permission to construct the pipe through their park, they would probably ask the City to close East Lake Rebecca Road.

Miller stated the estimated cost for the two more desirable force main routes is \$2.35 million and \$2.69 million.

Johnson asked if the route along County Road 92 would hook up to Greenfield at Highway 55.

Miller confirmed that was correct. He stated the estimated costs are for construction of the force main line. The City of Greenfield would probably require some type of connection fee or rate for capital expenses and expansion. The study has provided answers for the City Planner to respond to the Met Council's questions about the Comp Plan Amendment and the 2030 Comp Plan.

Wenck stated he is comfortable with the scoping study. He asked what the next steps in the process are.

Kaltsas responded the Met Council has a draft copy of the scoping study and when City staff met with Met Council staff, it seemed the study adequately answered all their questions. He added that once the City formally responds to the Met Council's questions, staff will know for sure if the Met Council has any other comments.

Miller stated the scoping study would be in draft form until the Council formally accepts it.

Motion by Wenck, second by Gyllenblad, to accept the Scoping Study for Commercial Area Utilities.

Vose stated he plans to meet with a representative from Ryan Companies to further discuss the scoping study and to see what Ryan Companies' position is.

Johnson stated he thought the Comp Plan Amendment was a moot issue because the Met Council is reviewing the entire Comp Plan update.

Vose responded that in practice, the Comp Plan Amendment would probably be a moot issue, but the Comp Plan Amendment is still a formal submission.

Johnson called for a vote. Ayes: Betts, Gyllenblad, Johnson, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

9. BRIAN MILLER, BDM, AND DAN KOCH, PUBLIC WORKS DIRECTOR; REQUEST FOR A FEASIBILITY STUDY FOR SEWER IMPROVEMENTS IN THE LINDGREN LANE NEIGHBORHOOD LOCATED EAST OF INDEPENDENCE ROAD AND ALONG THE WEST SHORE OF LAKE INDEPENDENCE, RESOLUTION NO. 09-1013-03.

Johnson asked if the City is comfortable enough with receiving the Met Council's approval for this project to move forward.

Miller responded the process to build sewer improvements is lengthy. The first step is a special assessment process, including a feasibility study that meets Minnesota Statutes Chapter 429 special assessment requirements. The study would review the cost of improvements, what properties are benefited and what the anticipated assessments would be. Afterward, the City would hold an assessment hearing. Then, generally the Council would start the project design and bidding process. Amending the Tri-City Agreement is as necessary, as well as approval from the Minnesota Pollution Control Agency. Miller stated that if the Council wants to start the project in 2010, it needs to start the process now. He added that the City can be working on the feasibility study while the City Planner is working on finalizing the Comp Plan with the Met Council.

Johnson asked staff members what they thought about the possibility of the Met Council approving the sewer improvements in exchange for the new urban residential area detailed in the 2030 Comp Plan.

Kaltsas responded in the meetings with Met Council staff, they seemed comfortable with the urban residential area density in exchange for this sewer improvement.

Johnson stated he is hesitant to start the feasibility study without hearing from Met Council, but wants to start the sewer improvements.

Wenck asked when the City will hear from the Met Council on the proposed project.

Kaltsas responded the City would be submitting its response on Oct. 14, but due to the Met Council's holiday schedule, the City probably wouldn't receive an official response quickly. He added in November staff would be attending some committee meetings to help secure approval.

Wenck stated amending the Tri-City Agreement with Medina and Greenfield probably would not be an issue, as long as the Met Council approves it. He stated he wants to wait until November when staff has met with Met Council staff to order the feasibility study. Wenck asked if the properties along Lindgren Lane and Independence Road would receive sewer service from the north or south.

Kaltsas explained that the City is creating a higher density urban residential district in order to keep the existing density along Independence Road and Lindgren Lane. He added the Met Council seems generally in agreement with this plan.

Wenck asked how the City would provide sewer service to the urban residential district.

Kaltsas responded the urban residential district would be phased in as a plan for 2020 to 2030. He noted the sewer for the urban residential district would have to come from Maple Plain, but the Independence Road sewer could come from the north or the south.

Johnson noted there is already sewer service near the urban residential district. He stated he would like to wait until November to order a feasibility study so that staff can obtain more formalized approval from the Met Council.

Motion by Betts, second by Gyllenblad, to table the feasibility study until the Nov. 17 Council meeting and request and estimated cost for the study and special assessment process through the public hearing. Ayes: Betts, Gyllenblad, Johnson, Wallace, Wenck. MOTION DECLARED CARRIED.

10. DISCUSSION AND APPROVAL TO APPLY FOR GRANT MONEY THROUGH THE HENNEPIN YOUTH SPORTS PROGRAM TO BE USED FOR THE DEVELOPMENT OF SPORT AND/OR RECREATION FACILITIES IN PIONEER CREEK PARK. RESOLUTION NO. 09-1013-04.

Johnson stated the City is able to apply for grant funding through Hennepin County for improvements to its parks. He asked Hirsch how much money the City wanted to apply for.

Hirsch responded the overall cost of the entire park development has been estimated at about \$500,000. She stated the grant could be from \$20,000 to \$400,000, with some matching contribution from the City. The County doesn't have a matching requirement, but told Hirsch the more the City could match the better.

Wenck asked what the Pioneer Park master plan was.

Hirsch responded the City does have a formal master plan for the park with a variety of amenities.

Johnson asked if the City can start by implementing parts of the plans for smaller dollar amounts.

Hirsch responded the park could be developed in phases. She stated the Public Works Department could do the grading work at the park, which would be considered an in-kind donation. Hirsch also noted there are community organizations that have shown interest in contributing to the development of the park.

Wallace asked what two baseball fields would cost.

Hirsch responded about five years ago, and estimate for both fields was \$60,000.

Motion by Wallace, second by Betts, to apply for an \$40,000 grant with a \$40,000 match of in-kind services. Ayes: Betts, Gyllenblad, Johnson, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

11. APPROVAL TO CANCEL THE NOVEMBER 10 AND 24 CITY COUNCIL MEETINGS AND RESCHEDULE THEM FOR TUESDAY, NOVEMBER 17 AT 7:30 P.M.

Wenck stated the Lake Minnetonka Cable Commission has a meeting on Nov. 17, so he will be late to the Council meeting.

Motion by Betts, second by Wenck, to cancel the Nov. 10 and 24 City Council meetings and reschedule them for Tuesday, Nov. 17 at 7:30 p.m. Ayes: Betts, Gyllenblad, Johnson, Wallace, Wenck. MOTION DECLARED CARRIED.

12. OPEN/MISC.

Nothing was added to the agenda.

13. ADJOURN.

Motion by Wenck, second by Gyllenblad, to adjourn the City Council meeting at 8:43 p.m. Ayes: Betts, Gyllenblad, Johnson, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.

Respectfully submitted by Christina Scipioni, Recording Secretary