

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, FEBRUARY 26, 2008, 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 Marvin 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, Wenck, Wallace, Gyllenblad.  
Staff: Clerk-Administrator Hirsch, Attorney Vose, Planner Lorsung, Building Official Satek.  
Visitors: Nora Carey, Attorney Peter Beck, Kathi and Ed Pluth, Judy Gustafson, LuAnn Brenno, Chris and Tessa Cady, Tom Goodrum, Carl and Lisa Phillips, Elizabeth Rick, Lynda Franklin, Ed and Eleanor Kalash, Leo Poole, Bob Schreck, Harry and Lola Pool, Chris Stephan, Steve McDonald, Jeff Roos, Chief Ray McCoy.

4. CONSENT AGENDA. APPROVE:

- February 12 Council Minutes
- January 2008 budget report

Motion by Wenck, second by Betts to approve the Consent Agenda. All present voted aye. MOTION CARRIED.

5. SET AGENDA. Anyone not on the agenda may be placed under Open/Miscellaneous.

There were no additional items.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF.

Gyllenblad: Lake Sarah TMDL meeting, Comp Plan meeting.  
Wenck: West Hennepin Chamber meeting.  
Wallace: Comp Plan meeting, Lake Sarah TMDL meeting.  
Mayor Johnson: NW League of Municipalities, Chamber of Commerce, Orono Healthy Communities Collaborative, Police Commission, Greater Lakes Food Bank Board meeting, CAPSH Finance Committee, LMC Board meeting, Land Use Advisory Committee for Met Council, Comp Plan meeting, Transportation seminar, Lake Sarah TMDL meeting, Orono School Board, met with auditors today, Impaired waters meeting.  
Clerk Hirsch: Met with Kimley-Horn, audit is going on this week, two phone calls re. Medina's comp plan east of Town Line Road and south of Hwy. 55.

7. PRESENTATION OF PLAQUES TO PARKS COMMISSIONERS RICK AND SCHRECK.

Mayor Johnson presented recognition plaques to former Commissioners Rick and Schreck and thanked them for their service to the city.

8. DIRECTOR OF PUBLIC SAFETY, RAY MCCOY.
  - January Activity Report
  - Bob O'Brien, Presentation of a Safe 'N' Sober Plaque to WHPS

Public Safety Director McCoy reviewed the December report for council members. He also brought council members up to date on some of the current events in Maple Plain and Independence.

Bob O'Brien was not present, and will make the presentation in March.

9. STEVE MCDONALD, ABDO EYCK & MEYERS - 2007 YEAR-END REPORT.

Mr. McDonald reviewed the 4th quarter report for council members. He noted that the city's financial position has improved since 2006. He also reminded council members that interest rates on their investments would be considerably lower this year than they were last year.

Commissioner Wenck asked what the total indebtedness is for the city. It will be in the auditor's report. There were no other questions. Mayor Johnson thanked Steve for his report.

10. APPROVE RESOLUTION NO. 08-0226-01 AUTHORIZING TRANSFER OF FUNDS TO PARKS FUND FROM CONTINGENCY FUND.

Motion by Wenck, second by Wallace to transfer \$16,789 from contingency fund to parks fund. This is money that the Parks Commission has earned through sponsorship of picnic tables, sponsors for events, etc. All present voted aye. MOTION CARRIED.

11. DOUGLAS AND NORA CAREY, 4985 BROADMOOR DRIVE (PID 25-118-24-44-0012) REQUEST TO APPEAL CITY DECISION ON LAND USE AS A VIOLATION OF CITY CODE.

Nora Carey and Attorney Beck were present to answer questions. City Planner Lorsung reviewed this request for council members. She stated that if the city's position is that this is indeed a motocross track, it is not permitted. However, Attorney Vose reminded council members that a decision was made a couple of years ago not to pass an ordinance regulating motorcycles and ATVs. The Planning Commission's Board of Appeals had asked for a definition of "motocross."

Attorney Beck, representing the Careys, stated that they concur with the attorney and the Board of Appeals. He feels very strongly that this issue is very, very far removed from the other situation that arose in the city a couple of years ago. The grading is nowhere close to the other situation, and there has never been a motocross bike on this track.

Council Member Wenck does not think this should be treated as a land use issue, but rather as a nuisance issue. Council Member Betts thinks the land use issue is important. Mr. Beck clarified that the Careys have set strict rules for their kids for riding their mini bikes, and have talked with neighbors to be sure that they aren't a nuisance. Council Member Gyllenblad has viewed both properties and does not think they compare at all.

Motion by Wenck, second by Gyllenblad to approve the Carey's appeal. All present voted aye. MOTION CARRIED.

Council Members concurred that the grading and motorcycle riding issues can be addressed some time in the future, possibly at a workshop. Attorney Beck asked that the Careys be informed by mail if and when the council works on this.

12. LEO POOLE, 3315 COUNTY ROAD 92 (PID 09-118-24-34-0004) APPEALING STAFF'S DECISION OF MOVING PERMIT VIOLATION.

Attorney Vose stated that Mr. Poole has now applied for and received a moving permit, but he is asking that he be exempted from this requirement, because he is in the Agricultural District and he is exempt from having to get a building permit. Mayor Johnson stated that the moving permit requirements are in a separate section of the code from the building permit requirements.

Clerk-Administrator Hirsch stated that any building over 100 square feet in size requires a relocation permit. That was not done. If the Council wants to exempt the Ag District from this requirement, then it certainly can. At this time the Ag District is not exempt. Mr. Poole did apply for a moving permit in 2003 for a different building. Inspector Satek stated that the building is supposed to be inspected before it is moved into the city. He added that any building larger than 10x12 feet is required to be anchored. Satek saw the building as it was being moved onto Mr. Poole's property. Mayor Johnson stated that we first have to determine whether it is agricultural land. There was a consensus that it is in the Agricultural Zone and it meets all requirements.

Council Member Betts noted that Mr. Poole had applied for a moving permit previously, so it seems to make sense that he would have done it for this building. Mr. Poole contended that he is not bound by any building regulations in the Ag Zone. Council Member Wallace asked what the Court ordered. Vose replied that Mr. Poole was told to apply for the moving permit. Betts asked how we can correct our ordinance if we want to do so. Vose said that it is not that our ordinance is wrong, but we could make it clear to our residents that the Ag Zone is exempt from certain requirements by amending our ordinance.

Mr. Poole has now applied for two permits to move two buildings.

Motion by Wenck, second by Betts that this is Ag land, it is an Ag building, and we are not going to return the moving permit fee. Voting aye: Mayor Johnson, Council Members Betts and Wenck. Nay: Council Members Gyllenblad and Wallace. MOTION CARRIED.

13. DISCUSS AND APPROVE ORDINANCE 2007-03 AMENDING CHAPTER 7 OF THE INDEPENDENCE CITY CODE TO ADDRESS INDIVIDUAL SEWAGE TREATMENT SYSTEM REGULATIONS INFORMATION.

Attorney Vose stated that this ordinance addresses the time period to replace a failing system. The current code is more lenient than this amended code. Language to allow a resident to appeal to the City Council for an additional two years to replace a failing septic system was requested. Inspector Satek stated that he looked at Carver, Ramsey, Washington and Anoka Counties' ordinances and could not see an appeals process included. Mayor Johnson replied that it would be simple to put in a sentence stating that a property owner could appeal to the City Council if he disagrees with the building inspector's finding that the system is failing. Satek commented that we already give a person three years to replace the failing system, so an appeal doesn't seem necessary.

Planning Commissioners' concern was that one person, the building inspector, could determine whether a system was failing as the ordinance is presently written. The concern was not the number of years given to replace the system, but that only one person was responsible for determining if a system was failing. The Planning Commission wanted the individual to be able to obtain and provide a second opinion about his septic system and bring his appeal to the City Council if that second opinion differs from the building inspector's. It was clear that Commissioner Gardella wanted a check on one person's opinion.

Motion by Wenck, second by Betts to have an amendment prepared for this ordinance stating that the property owner can appeal a finding of a failing septic system to the City Council. All present voted aye. MOTION CARRIED.

14. FIRST OF THE YEAR APPOINTMENTS.

Motion by Wenck, second by Wallace to make the following appointments:

Assessor:	Hennepin County.
Acting Mayor:	Norm Wenck.
Official Depositories:	Bank of Maple Plain, Northland Securities, LMC Cities, Ehlers Associates (Wenck abstained from this vote.)
Assistant Weed Inspector:	Dan Koch.
Assn. of Metro Municipalities :	Mayor Johnson.
Attorney, Civil:	Kennedy and Graven.
Attorney, Criminal:	Carson and Clelland.
Auditor:	Kern Dewenter Viere.
Civil Defense Director:	Ray McCoy.
Comp Plan Task Force:	Lance Gyllenblad, Lindsay Wallace.
Data Compliance Officer:	Toni Hirsch.
Dog Pound:	Crossroads Animal Shelter.
Engineer:	Wenck would like RFP/RFQs for Engineer, Planner, Water Resource, Building Official.

Mayor Johnson is concerned if we decide to change planners while in the midst of a comp plan update. Wenck does not think this would commit us to anything to get the RFP/RFQs. Motion by Wenck, second by Gyllenblad to get RFP/RFQs for City Engineer, Planner, Water Resource and Building Inspections, with citizen involvement in the interviews. All present voted aye. MOTION CARRIED.

Fire Dept. Advisory Board:	Maple Plain-Mayor Johnson, Betts, Wenck as alternate. Delano: Johnson, Wallace. Gyllenblad alternate.
Highway 55 Coalition:	Mayor Johnson, Gyllenblad alternate.
HRA	Mayor Johnson, Betts, Gyllenblad, Wenck, Wallace.
LMCC:	Jim Smith, Wenck.
Minnehaha Creek Watershed:	Mayor Johnson, Gyllenblad.
NW League of Municipalities:	Mayor Johnson, Betts, Gyllenblad, Wenck, Wallace.
Newspaper:	Pioneer.

Motion by Wallace, second by Wenck to get RFPRFQs from the two Delano papers. All present voted aye. MOTION CARRIED.

Planning Commission Liaison:	Gyllenblad, Wenck alternate.
Parks Commission Liaison:	Wallace, Betts alternate.
Pioneer-Sarah Watershed:	Carole Peter, Jim Smith and Gyllenblad alternates.
West Hennepin Police Comm.	Mayor Johnson, Gyllenblad.

All present voted aye. MOTION CARRIED.

15. CANCEL THE MARCH 11 CITY COUNCIL MEETING, DUE TO LACK OF AGENDA.

Motion by Wallace, second by Wenck to cancel the March 11 Council meeting for lack of an agenda. All present voted aye. MOTION CARRIED.

Motion by Wenck, second by Betts to have a special council meeting Tuesday, March 18 at 7:15 a.m. to approve March Accounts Payable and liquor license applications. All present voted aye. MOTION CARRIED.

16. OPEN/MISCELLANEOUS.

There were no additional items.

17. ADJOURN.

Motion by Gyllenblad, second by Wallace to adjourn. All present voted aye. MOTION CARRIED. Meeting adjourned at 9:40 p.m.

Respectfully submitted,

Mollie Little, Recording Secretary