

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, AUGUST 21, 2012 – 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, Councilors Betts, Fisher, Spencer, and Wenck.

ABSENT: City Attorney Robert Vose

STAFF: Clerk-Administrator Hirsch, City Planner Kaltsas, City Attorney Manderschied

VISITORS: Donna Mae Johnson and daughter Peggy, Mary Lynch, Mike Mohnahan, Jerry Wise, Roger Dolliff, Sgt. Gary Kroells, Charles Hayes, & Laverne Vassar

4. CONSENT AGENDA.

Approve:

- Approval of City Council Minutes from July 24th, 2012
- Approval of Accounts Payable for August, 2012
- Approval of 2<sup>nd</sup> Quarter Report - ABDO

**Motion by Betts, seconded by Fisher, to approve the Consent Agenda as printed. Ayes: Mayor Johnson, Betts, Fisher, Spencer, and Wenck. Nays: None. MOTION DECLARED CARRIED.**

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

Wenck asked to add the Lake Minnetonka Cable Commission 2013 Budget

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- National Night Out Party (Night to Unite)
- LICA ice cream social
- Planning Commission

**Wenck attended the following meetings:**

- Three (3) Lake Minnetonka Communication Commission Meetings of which were  
- Two (2) Budget Meetings and a Quarterly Commission Meetings

**Fisher attended the following meetings:**

- Had no meetings to report

**Betts attended the following meetings:**

- Four (4) different National Night Out Parties (Night to Unite)
- LICA ice cream social
- Ground Breaking Ceremony for the Anderson Park n' Ride Station in Maple Plain
- Maple Plain Centennial

**Johnson attended the following meetings:**

- Greater Lakes Food Bank special board meeting to fold it into the organization as East Side; which works with Senior Community services.
- Staff member meeting with Three Rivers Park District Vision Meeting and board member Sarah Wyatt
- Met at Gale Woods regarding state soils samples
- Annual Senior Community Services Board Dinner at the Plymouth Senior Center
- Loretto Fire Department meeting
- Event at Farm Fest for Hennepin County Farm Representatives
- Farm Family Representative meeting with County Board at the Government Center
- Conference call with Transportation for America
- Harry Pool's Funeral (former mayor of Independence)
- Five different Night to Unite parties (National Night Out)
- Election Training at City Hall
- Wayne Fingelson, Wright County Highway Engineer, Retirement Party
- Community Action Partnership Suburban Hennepin County Finance Committee Meeting
- Conference Call with Senior Community Services Board regarding the future of Senior care
- Maple Plain's Centennial, Thursday night's movie in the Park
- Ground Breaking Ceremony for the Anderson Park n' Ride Station in Maple Plain
- Maple Plain's Centennial Parade
- West Hennepin's Pioneer Museum's Annual Meeting
- Committee meeting for Metro Cities at the League of Minnesota Cities office

**Hirsch attended the following meetings:**

- Met with a third Boy Scout regarding work with the City on his Eagle Scout's Projects

- Staff and board member meeting with the Three Rivers Park District
- Election judge training with 21 judges as well as assisting Greenfield judges with questions.
- Primary Elections – 11% to 12% turnout
- Maple Plain’s Centennial, Thursday night’s movie in the Park
- Maple Plain Centennial Saturday activities

7. RON LYREK, 5286 COUNTY ROAD 11 (PID#’S 10-118-24 34-0008) REQUEST THE CITY CONSIDER A CONDITIONAL USE PERMIT ALLOWING AN ACCESSORY DWELLING UNIT TO BE LOCATED WITHIN THE EXISTING ACCESSORY STRUCRE LOCATED ON THE PROPERTY. RESOLUTION NO. 12-0821-01.

Kaltsas informed the Council that it’s not a continuation for the Council but it was for the Planning Commission. However, the Planning Commission had opened and closed it, yesterday, at their last meeting.

Kaltsas explained the request for a conditional use permit; in which the applicant was seeking to allow an accessory dwelling unit to be located within the existing accessory structure that’s on the subject property. He explained that the property is zoned rural residential, roughly 5.5 acres, and is connected to the city sewer.

Kaltsas stated recently the City adopted a new ordinance that permits accessory structures dwelling units as conditional uses within a new structure or existing structures. He went on to state that there is a set of criteria that need to be met when allowing this; which he reviewed and are listed in the staff report.

Kaltsas talked about the history of the structure and informed the City that only a bathroom permit has been pulled for this structure.

In further comments he stated how this proposal fit within the following guidelines.

- a) It must be attached to or within the dwelling unit or within a detached accessory building which has a principle structure on the property.
- b) Subordinate in size to the single family dwelling unit.
- c) Proposed accessory dwelling unit would be separate from the home by means of a wall, floor, or by a door.
- d) Architecturally compatible to the principle structure using materials, finish, or styles similar to the principle structure.
- e) Lesser of 33% of the above ground area living area of the principle structure 1200 square feet and no less than 400 square feet.
- f) Not in excess of the maximum square footage for an accessory structure.

- g) Has permanent provisions for cooking, living, and sanitation.
- h) Has no more than two bedrooms
- i) Limited to relatives of the homesteaded owner occupants or relatives of the homesteaded owners of the principle structure, and the total numbers of individuals that reside in both do not exceed the number of occupants that are allowed in the building code.
- j) Uses an onsite septic system or holding tank.
- k) Respectful to future subdivision of the property.

Kaltsas stated the structure is in compliance with the adopted building code relating to all aspects of a dwelling unit. He stated the applicant made building improvement to the current structure. He and the building official have viewed the interior structure and as previously noted the only permits obtained are for a bathroom and a sink. He stated an after the fact inspection would need to be completed to meet the current building code. The owner would be required to obtain permits for all the work that was completed.

Kaltsas explained the additional living space would be 1,131 square feet; which falls within the City guidelines, less than 1,150 square feet. Within this space there is one bedroom and an office. He stated the accessory dwelling unit would be occupied by the applicants parents; and only contain one bedroom. So, it would not exceed the maximum occupancy limit allowed by the City.

Kaltsas stated the criteria related to the current dwelling unit have been met; however the City has additional criteria in receiving a conditional use permit.

Kaltsas went on to explain the Planning Commission's discussion and how they felt the ordinance may need to be reviewed. The Commission felt that the architectural compatibility was not a factor since this is an existing structure. He state the Planning Commission made a recommendation to approve of the conditional use permit for the accessory dwelling unit.

Betts inquired if the unit already has a heating source and air conditioning and the type.

Kaltsas stated the dwelling had a furnace with forced air heating and cooling.

Johnson inquired about when it was built.

Lyrek stated it was built in about 1925.

**Motion by Wenck, second by Spencer to approve the conditional use permit Resolution No. 12-0821-01, allowing for the accessory dwelling units to be located within the existing accessory structure located on the on the property., Ayes, Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays'; None; Absent: None; MOTION DECLARED CARRIED.**

8. MARY LYNCH, 4976 SOUTH LAKE SHORE DRIVE (PID NO. 24-118-24 11-0008) REQUESTS THE CITY TO CONSIDER A VARIANCE FROM THE MINIMUM LOT SIZE REQUIRED TO SUBDIVIDE A PROPERTY IN THE RURAL RESIDENTIAL ZONING DISTRICT. THE VARIANCE WOULD PERMIT THE EXISTING 2 ACRE PARCEL PROPERTY TO BE DIVIDED INTO TWO (2) 1 ACRE PARCELS. RESOLUTION NO 12-0821-02:

Kaltsas briefly explained the situation and the previous discussion on the Shoreland Ordinance. The city had then recommended the applicant complete the application and go through the process of requesting a variance.

Kaltsas reiterated the minimum lot size according to the zoning ordinance which is 7.6 acres for rural residential lots to be subdivided. However, the Shoreland Overlay district allows a lot size of 1.0 acres if the lot is sewered. He explained within the district it states that if there are more restrictions in the underline zoning; then those restrictions will apply.

Kaltsas stated the property is on Lake Independence has one dwelling, connected to city sewer, a detached garage, and is zoned rural residential with 2.11 acres.

Kaltsas explained to the Council the city had twice approved subdivisions similar to this in the past, about ten (10) years ago. The current lot is connected to city sewer and if divided the second lot has connection available.

Kaltsas stated that this lot larger than most all the other neighboring lots. The majority of the lots around it are between 1.0 acre to .5 acres in size.

Kaltsas stated the City's criteria for granting a variance and a subdivision,

- The property owner proposes to use the property in a reasonable manner not permitted by the zoning code.
- The plight of the property owner is due to circumstances unique to the property not created by the landowner.
- The variance, if granted, will not alter the essential character of the locality.

Kaltsas stated the variance would make it consistent with the Shoreland Overlay. The applicant is stating that not being able to subdivide the property to be consistent with surrounding properties creates a hardship, by have a larger property that is more restrictive than those around it.

Kaltsas stated the majority of the property is on a vacated street Right of Way. He stated one way to solve the frontage issue is to reserve the right for the City to build a cul-de-sac in the future if needed and the area is further developed. Or, he explained the City could waive the criteria if the development plan encompasses the entire property and the applicant must enter into a private road agreement. He said the Lot is developed and the applicant currently has a private road agreement.

Kaltsas stated the applicant would be required to give the ten (10) foot utility drainage easement on the property.

Kaltsas stated Lot 1 has existing sewer that is already connected.

The subdivision requirements and proposed lot layouts are as follows:

	<b>Requirements</b>	<b>Lot 1 - Developed</b>	<b>Lot 2 - Undeveloped</b>
Water Frontage at OHWM	100 Feet	198 Feet	110 Feet
Setback from OHWM	100 Linear Feet	60 Linear Feet (60% for existing lot of record)	100 Linear Feet
Lot Width at Building Line	100 Feet	150 Feet	240 Feet
Impervious Surface	25%	25%	25%
Frontage on Public Right-of-Way	200 Linear Feet	69 Linear Feet	50 Linear Feet
Lot Frontage	1:4	1:4	1:1

Kaltsas stated the two lots appear to meet the requirements relating to both the variance and the subdivision.

Kaltsas stated that Lot 2 would also be required to pay a park dedication fee of \$3500. He stated that no public concerns were made outside of one question from a neighbor about access from the private driveway.

Kaltsas informed the Council the Planning Commission made a recommendation to approve the variance and the minor subdivision of the property with the following conditions: pay all fees for sanitary sewer assessment, sewer system inspection, Street to house connection fee, and Met Council Sewer Availability Charges, as well as the park dedication fee.

Johnson questioned where the sewer line actually runs.

Kaltsas stated it is located on the south side of the private drive.

Johnson questioned about the three vacant lots and if they are unbuildable.

Kaltsas answered there are only two lots vacant and the third one is actually Lake Street; which the City maintains the Right of Way. He stated the two vacant lots are buildable, and they were platted prior to the adoption of the City's ordinance.

Johnson asked if the two vacant lots were also on the private road agreement.

Kaltsas stated that all the lots along the road with access are part of that agreement.

**Motion by Betts, second by Spencer to adopt Resolution No. #12-0821-02. Approving a variance and minor subdivision Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.**

9. (CONTINUATION) – DONNA MAE JOHNSON, 340 COUNTY ROAD 19 (PID NO. 36-118-24 13-0001) REQUESTING A MINOR SUBDIVISION FOR A RURAL VIEW LOT. RESOLUTION NO 12-0821-03.

Kaltsas informed the Council about previous effort made by the homeowner to request a variance and a subdivision. He stated the applicant decided to remove detached structure and is no longer is looking for a variance as lot lines were adjusted. Applicant is now just requesting a minor subdivision.

Kaltsas explained the requested lot line changes since the original proposal months ago. He stated that drainage easements and documentation is still maintained, as well as city fees and park dedication fees.

Johnson requested adding a “Where As” to rescind the prior approved to allowed subdivision.

**Motion by Betts, second by Wenck to adopt Resolution No. #12-0821-03. Approving a minor subdivision, adding another where as to rescind the prior approved subdivision. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.**

10. BRIAN MILLER, APPROVAL AND DISCUSSION OF RESOLUTION NO. 12-0821-04, ORDERING THE PLANS AND SPECIFICATION’S IN THE MATTER OF THE VINLAND CENTER SANITARY SEWER EXTENSION.

Miller explained his plans and pointed out where the lift stations and drains would be located. He stated the project is on-going and additional info and costs will occur in the Spring.

Johnson inquired how far and in what direction will the septic lines be going. He asked how it will go under the road.

Miller stated the Vinland Center is seeking bids for additional work and will bring those to the City Council meeting on September 25th for consideration.

Miller dispersed handouts and maps to the Council to review. He pointed out and went on to say that for the most part the sewer lines will stay along the Westside of the road. He pointed out along County Road 11 there is a flat spot were a clean/manhole will be installed.

**Motion by Spencer, second by Wenck to accept Resolution No. #12-0821-04. Approving the plans and specification of the Vinland Center Sanitary Sewer Extension. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.**

Miller informed the Council there was a merger of firms. BDM is now a division of MSA (Mid States Associates) Professional Services. He stated there should be no change is service, but they will now service a larger area.

11. PIONEER SARAH CREEK WASTERSHED MANAGEMENT COMMISSION, JERRY WISE- PRESENTING THE COMMISSIONS PROPOSED 2013 BUDGET.

Tabled until September 11<sup>th</sup> Council Meeting.

12. MISC./OPEN

Norm Wenck - Lake Minnetonka Cable Commission 2013 Budget

Norm informed the Council a 2013 LMCC (Lake Minnetonka Cable Commission) balanced budget was approved. He stated Media Com subscribers will see the monthly PEG fee increase from \$.85 to \$1.20.

Johnson asked which cities participate in this agreement.

Wenck stated 17 cities are currently working with the Commission. The city of Wayzata and Mound are not. He said Mound has a special deal which is allowing them more services based on their old plan.

Wenck stated Medina is working with the FCC to increase the fiber networking coverage and requested Hirsch contact the administrator there.

Hirsch stated she has already started talks with Medina regarding this.

He stated the franchise agreement still has a year and a half to go before the next 10 year agreement. He said now is the time to get on board with this project.

Johnson asked if new lines were being built.

Wenck stated they haven't.

The Council supports the continued effort of Staff working with the City of Medina

Laverne Vassar, 3285 Lake Haughey Road (PID # 08-118-24-33-0004)

Vassar questioned if the Vinland Center was paying for the sewer and fire services they use. He also inquired if anything has been done yet about the public nuisance in front of his home.

Johnson stated the Vinland Center has been paying their share for many years.

Hirsch stated we are working on it, but contact has not yet been made with the DNR Regional Wildlife Manager, Tim Bremicker.

Vassar stated he does not want it swept under the rug.

Cancelling of the City Council meeting scheduled for August 28<sup>th</sup>

Johnsons stated we have discussed the planning items tonight and may not need to meet next week. He said since the meeting isn't officially cancelled, a motion needs to be made to cancel the next meeting.

**Motion by Betts, second by Wenck to cancel the Council Meeting scheduled for August 28th. Ayes; Mayor Johnson, Council members Betts, Fisher, Spencer, and Wenck; Nays; None, Absent: None. MOTION DECLARED CARRIED.**

Budget Work Session set to discuss the budget 2013

After further discussion and reviewing of calendars, the City Council decided to meet on Friday, August 24<sup>th</sup> at 7AM to 8AM to review the budget. Another budget meeting will be scheduled Friday, September 7<sup>th</sup> at 7AM.

13. Adjourn.

**Motion by Wenck, second by Fisher to adjourn the City Council meeting at 8:40 p.m. Ayes; Mayor Johnson, Councilmembers Betts, Fisher, Spencer, and Wenck; Nays; None: Absent; None. MOTION DECLARED CARRIED.**

Respectfully submitted,

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Jolene Nelson, Recording Secretary