

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, SEPTEMBER 23, 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 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 Hirsch, Attorney Vose, Planner Lorsung, Public Safety Director McCoy

VISITORS: Tim Gremicker, Tim Edwards-Hughes, Todd Kanieski, LuAnn Brenno, Kathy Pluth, John & Cathy Zeglin, Jim Smith, Gene Purdy, Bobanette McCoy, Harry Pool

4. CONSENT AGENDA.

Approve:

- Council Minutes – Sept. 8, 2008.
- LMCC 2009 budget.
- Change the TNT reconvenes date and time to Monday, December 8, at 6:30 p.m. from Tuesday, December 9, 6:30 p.m.

Motion by Wenck, second by Betts, to approve the consent agenda, except for item number three. All present voted aye. MOTION DECLARED CARRIED.

Johnson pulled the Truth In Taxation reconvene date from the agenda. He explained that the Council had originally changed the first Council meeting in December to Dec. 8 to follow the Truth In Taxation hearing, but it would need to change the meeting date back to Dec. 9 because the Planning Commission meets on Dec. 8 at 7:30 p.m.

Motion by Betts, second by Wenck, to rescind the previous Council action and to hold the first Council meeting in December on Dec. 9 at 7:30 p.m., the regularly scheduled date. All present voted aye. 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: Comp Plan Task Force meeting, Council Work Session.
Wenck: Comp Plan Task Force meeting, Northwest League of Municipalities/Met Council meeting, Council Work Session.
Wallace: Comp Plan Task Force meeting, meeting with Independence, Delano and Ryan Companies officials, Council Work Session.
Betts: Chamber of Commerce meeting, League of Minnesota Cities LGA summit, Council Work Session.
Mayor: Hennepin County HRA meeting, League of Minnesota Cities Fiscal Futures Committee meeting, Orono Schools' new track ribbon-cutting, Community Action Partnership of Suburban Hennepin Finance Committee meeting, Northwest League of Municipalities/Met Council meeting, Minnehaha Creek Watershed District boat trip, League of Minnesota Cities LGA summit, Met Council Land Use Advisory Committee meeting, Senior Community Services planning retreat, Hennepin County Active Living Committee, Council Work Session.
Hirsch: Statewide Election Recount.

7. DIRECTOR RAY MCCOY – WEST HENNEPIN PUBLIC SAFETY.

McCoy stated that as of August 31, West Hennepin Public Safety had responded to 4,487 incidents, which is down slightly from the previous year. McCoy stated WHPS responded to a burglary in progress and arrested a 17-year-old man. He said that WHPS also processed some airplane complaints and trespassers on a train. McCoy stated that WHPS also responded to a serious automobile accident on Game Farm Road.

McCoy also discussed a news release WHPS recently sent out regarding a recent arrest that solved about 18 open burglary cases.

McCoy stated that four police chaplains from WHPS assisted at the Republican National Convention.

He also explained that due to a recent Supreme Court ruling, WHPS is having its impound policy reviewed.

Johnson asked what will happen to the people arrested during the local break-in, which was mentioned in the news release.

McCoy explained that they were charged earlier in the day.

8. TIM BREMICKER – DNR REGIONAL WILDLIFE MANAGER, BINGER PROPERTY ON LAKE ROBINA..

Bremicker explained that he was at the meeting to answer the Council's questions regarding the property on Lake Robina. He explained that the property is a State Management Wildlife Area. He said that the DNR was approached by the Robina Foundation board of trustees a year ago. The Foundation asked if the DNR would accept the property as a gift. Bremicker explained that the DNR went through a review process to decide if it would accept the property. He explained that state statutes dictate that Wildlife Management Areas are for the preservation of wildlife, open space, natural areas and to minimize any

development on the property. He said that WMAs are open for public hunting, walking and snowshoeing, but not for motorized use.

Betts asked if horses are allowed on the property. She stated that there was a trail on the property that had been used for horseback riding.

Bremicker responded that horseback riding is not allowed on the property. He said that the Robina Foundation understood that there would be no horseback riding before it donated the property.

Bremicker stated that Minnesota has one of the largest WMA systems in the United States, with 1.3 million acres. He said that there is only one other WMA in Hennepin County. He explained that there is a large set of rules for how WMAs may be used, which is mainly for hunting. Bremicker stated that Mr. Binger wanted the property donated in order to preserve it as open space.

Bremicker stated that the Binger foundation then donated the property to the DNR and the DNR accepted the property on Dec. 20, 2007 and had a dedication ceremony in June.

Johnson asked how people receive permission to hunt on the property. He asked if people just need to show up and hunt, or if there's more they need to do.

Bremicker explained that people must be licensed hunters and go through a rigorous firearm safety course.

Wallace said he didn't think there had been too many problems on the property so far.

Bremicker explained that hunting isn't something that's done in large groups. He explained that if a hunter shows up and the area is already being used, the hunter will go somewhere else. He said that so far, there hasn't been much activity on the property. Bremicker said he checked the parking lots and didn't see any debris or evidence of motor vehicle use.

Johnson said a neighbor of the property was concerned about the traffic through the property and people having the correct approval to hunt on the property.

Bremicker said the DNR did not see the need to restrict access.

Johnson asked if there was parking at the south gate.

Bremicker responded that there currently isn't parking, but some people are parking. He said the DNR is trying to figure out a way to encourage people to park on the west end. He added that most of the use for the area would probably be in the fall.

Bremicker said the DNR would work with the City if any issues arise.

Wallace said that one of the concerns residents was that a parking lot appeared without any warning or notification.

Bremicker said that the DNR should have kept the City better-informed. He explained that the DNR had a short amount of time to finish work on the park after the donation of the land.

LuAnn Brenno, resident, said that on the south end, she typically see cars where there shouldn't be any parking. She asked who she should notify when she sees this problem.

Bremicker said that the DNR would be putting in signage to keep people from parking in the area.

Johnson thanked Bremicker for coming in and explaining the issue to the Council.

Bremicker described some of the wildlife he had seen on the property.

9. TIM HUGHES, 4885 COUNTY ROAD 6 (PID# 36-118-24-11-0001), REQUEST FOR A SIMPLE SUBDIVISION TO CREATE ONE NEW LOT.

Lorsung stated that the subdivision would be done by a survey instead of a plat. She explained that the applicant is seeking to create one additional lot, which does meet the rural residential zoning requirements for density. She explained that the Planning Commission had some questions about roadway frontage for the proposed southern property. Lorsung stated that staff conducted research on previous subdivisions that were granted access through an easement. She explained that instead of creating a flag lot, which is prohibited by City Code, staff recommended that the south lot be granted access through a cross-access easement on the north property to benefit the south property. Lorsung added that the Planning Commission recommended approval with conditions outlined in the staff report. She added that one of the Planning Commissioners added a requirement to change the easement to 33-feet wide, in case there is ever a road put in that area.

Wenck stated that the City Code requires there be a certain amount of road frontage for each lot, and that the Planning Commission had a lengthy discussion about whether or not the south lot would have the correct amount of frontage. He said that the south property wouldn't have enough feet of road frontage. He asked how this decision would affect other similar properties in the City.

Lorsung responded that the road frontage of the north lot could also be counted as road frontage for the south lot, by way of the cross-access agreement. She stated that the road frontage requirements are meant to limit the amount of access points onto a road.

Johnson stated that there are a lot of these types of lots in the City.

Betts asked if the utilities would follow the cross-access easement.

Lorsung explained that the City would be taking drainage and utility easements for both properties.

Vose stated that a strict interpretation of the Code would require that each lot have 300 feet of road frontage, but that requirement can be waived when doing a simple subdivision. He stated that instead of a variance process, the Council could waive the requirement and have that as part of its resolution for the properties.

Wenck asked if other nearby lots would be able to subdivide in the same way. He noted that if the Council approves multiple subdivisions like the current applicant's, then there would be numerous lots with cross-access agreements.

Johnson stated that there haven't been many requests like this one in the past.

Betts asked if the properties to the west of the applicant's property would be able to subdivide because most of the property is wetlands.

Lorsung responded that City Code does not require buildable acres, just 2.5 acres with two septic sites.

Betts asked what properties would be serviced by what could potentially become a road where the access easement is.

Lorsung explained that taking 33 feet for the easement doesn't mean that there would be a road there. She stated that adding additional width to the easement doesn't mean that there will be a road where the easement is.

Motion by Betts, second by Gyllenblad, to have staff prepare a resolution to approve the simple subdivision, subject to the following conditions:

- **The applicant shall provide to the City a drainage and utility easement.**
- **The applicant shall provide a cross-section easement agreement and record the document against both properties.**
- **The applicant shall have Hennepin County review the subdivision for conveyance of property for right-of-way.**
- **The applicant shall pay one park dedication fee.**
- **The applicant shall pay to the city all fees associated with the review of this application.**
- **The applicant shall record the subdivision and all easement agreements with Hennepin County within six months of approval.**
- **The cross-access easement shall be 33 feet wide.**
- **Per Section 500.09 of the Subdivision Ordinance, a Simple Lot Division shall allow for flexibility in certain code requirements including minimum road frontage and the sharing of road frontage and access in order to create a lot per the Rural Residential zoning standards.**

Ayes: Betts, Gyllenblad, Johnson and Wallace. Nays: Wenck. MOTION DECLARED CARRIED.

10. GERALD BENTZ AND GENE PURDY, 8590 COUNTY ROAD 6 (PID# 32-118-24-22-0001), REQUEST FOR A PRELIMINARY AND FINAL PLAT TO REARRANGE A LOT LINE.

Lorsung explained that the applicant had previously received approval to create two rural view lots, each with 10 acres. She explained that the applicant is coming back to the City for approval to move where one of the lots is located. She explained that all of the lots still meet City Code requirements. She added that the new lot locations would add one driveway access on Copeland Road. Lorsung stated that the Planning Commission discussed the grading project that is currently being done on the property. She stated that the Commission also discussed that Fox Lake is not currently a DNR-controlled lake, but under the proposed new Shoreland Ordinance, the lake would be DNR-controlled. She noted that the City would be taking drainage and utility easements.

Johnson asked if the Hennepin County right-of-way had already been taken.

Lorsung responded that there is some right-of-way that still would need to be taken through this plat.

Motion by Wenck, second by Gyllenblad, to have staff prepare a resolution to approve the preliminary and final plat to rearrange a lot line, subject to the following conditions:

- **The final plat shall indicate Hennepin County’s right of way requirement, as approved by the City.**
- **The final plat shall indicate the appropriate drainage easements for wetlands and interior drainage and utility easements for each property.**
- **The attorney shall prepare a plat opinion with the updated title work prior to Final Plat approval.**
- **The applicant shall pay for all fees associated with the review of this application.**

All present voted aye. MOTION DECLARED CARRIED.

11. CODE ENFORCEMENT PROCEDURE.

Per request from Wenck, Hirsch explained that if someone calls the City with a complaint or concern, the Code Enforcement Officer will go to the property to see if there is anything being done that warrants further investigation. Before walking around the property, the Officer sees if the property-owner is home and explains why he is there. If the property owner is not home, the Officer leaves a note on the door that explains why he was there. The Officer takes photos of the work being done, if there is something of concern, and forwards those photos to the correct consultant or agency.

Hirsch explained that if a Code violation is found, the City notifies the property owner and asks for a response or action within 30 days.

Wenck asked if the City follows up on all calls.

Hirsch responded that the City does look into all concerns or complaints.

Hirsch explained that the complainant’s identity has to remain private, unless the issue ends up going to court.

Wenck asked who receives the complaints and who makes the decision to send the Officer out.

Hirsch explained that various staff members receive complaints.

Wenck asked if Hirsch makes the decision to send a staff member out to investigate the complaint.

Hirsch responded that usually she and the Official discuss the call before deciding what action to take.

12. SET NEXT BUDGET WORKSHOP AND SOME DATES TO MEET WITH CITY ENGINEER TO DISCUSS THE LINDGREN LANE ISSUE.

The Council decided to meet at 6:30 a.m. on Tuesday, Sept. 30 to discuss the West Hennepin Public Safety budget.

The Council decided to meet at 7:30 a.m. to Tuesday, Sept. 30 to meet with the City Engineer to discuss the Lindgren Lane sewer issue.

13. RESCHEDULE THE NOVEMBER 11, CITY MEETING TO ANOTHER DATE, DUE TO THIS BEING VETERANS' DAY AND THE OFFICE WILL BE CLOSED.

Motion by Betts, second by Wenck, to reschedule the Nov. 11 Council meeting to 7:30 p.m. on Nov. 18, or to cancel the meeting if there is not enough business for the agenda.

14. OPEN/MISC.

Nothing was added to the agenda.

15. ADJOURN.

Motion by Betts, second by Wallace, to adjourn the City Council meeting at 8:45 p.m. All present voted aye. MOTION DECLARED CARRIED.

Respectfully submitted by Christina Scipioni,
Recording Secretary