

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, APRIL 27, 2010 – 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, Spencer, Wallace and Wenck.

ABSENT: Clerk-Administrator Hirsch.

STAFF: Administrative Assistant Scipioni, Attorney Vose, City Engineer Miller, Dave Callister – Ehlers and Associates, Shane Nelson – Hakanson Anderson, Craig Jochum – Hakanson Anderson.

VISITORS: Kathie Armstrong, Jeff Morlock, Chris Cady, Steven Crosby, Dave Appelhof, Jody Gustafson, Mark Fischer, Eric Fredin, Kristen Fredin, Jim Smith, Carla Smith, Mark & Candy Miller, Steve Skillen.

4. CONSENT AGENDA.

Approve:

- Council Minutes – April 13, 2010.
- Information Request Form.
- Agricultural Preserve request for Ronald & Marilyn Harter, 3810 Lake Haughey Road (PID's 08-118-24-22-0005, 08-118-24-23-0009 and 08-118-24-24-0003).

**Motion by Wenck, second by Betts, to approve the consent agenda with typographical corrections made to the minutes. Ayes: Betts, Johnson Spencer, 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

Spencer: Meetings with property owners about the Lindgren Lane/Independence Road sewer project, Pioneer Sarah Creek Water Management Commission meeting.

Wenck: Lake Minnetonka Communications Commission meeting.

Wallace: No meetings to report. Wallace noted that an Independence resident, Nate Triplett, had recently been drafted by the Minnesota Vikings.

Betts: Sensible Land Use Committee conference, meeting at the Gillespie Center to discuss Met Council transportation issues, West Hennepin Chamber of Commerce meeting, Listened to the April 13, 2010 Council meeting, Maple Plain Fire Commission meeting.

Mayor: Northwest League of Municipalities meeting, Maple Plain Fire Commission meeting, Highway 55 Corridor Coalition meeting, two tapings for a Step To It television promotion, League of Minnesota Cities Safety and Loss Prevention Workshop, WeCan Prayer Breakfast, Ridgeview Foundation dinner, Community Action Partnership of Suburban Hennepin Board meeting, Met Council and County highway investment planning meeting, Senior Community Services Executive Committee meeting.

7. DIRECTOR RAY MCCOY – WEST HENNEPIN PUBLIC SAFETY, MARCH 2010  
ACTIVITY REPORT.

McCoy summarized the March 2010 activity report. West Hennepin Public Safety has seen an increased activity level for the past two years and the trend is continuing in 2010. WHPS has responded to several reports of mailbox damage and solicitors without a permit. There was also one dangerous dog designation and the owners decided not to keep the dog. The Minnesota Department of Transportation is reimbursing WHPS for extra patrol officers during the morning and afternoon rush hours. WHPS has had several issues with the Common Bond property in Maple Plain and is working with management to resolve the problem.

Johnson asked if the Common Bond property has a resident manager onsite and noted that a lack of a resident manager could be part of the problem.

McCoy responded there is a staff person at the apartment complex two days a week. He noted that Common Bond's management has been willing to work with WHPS to solve the problem.

8. PUBLIC HEARING (8:00 P.M.) STORMWATER POLLUTION PREVENTION PROGRAM  
(SWPPP) ANNUAL REPORT – SHANE NELSON, HAKANSON ANDERSON.

Nelson stated part of the Storm Water Pollution Prevention Program Permit from the Minnesota Pollution Control Agency requires that the City hold a public hearing each year. The City's SWPPP permit works to decrease the amount of pollutants that are discharged into water. The permit includes six minimum control measures and each minimum control measure has best practices. The minimum control measures are (1) public education and outreach (2) public participation and involvement (3) illicit discharge detection and elimination (4) construction site storm water runoff control (5) post-construction storm water management in new development and redevelopment (6) pollution prevention and good housekeeping.

Nelson stated the City will face some challenges in the future. The City's current permit expires May 31, 2011, which means that the City will have to complete a new permit. Water and soil quality issues that are discovered during storm pond inspections will be another issue for the City. Implementation of TMDL studies will be another task for the City.

Betts asked if aerators in storm ponds affect water quality.

Nelson responded that aerators typically do not affect water or soil quality in storm ponds.

Johnson asked if most storm ponds in the City are designed to hold water all the time or drain once the rainfall is over.

Nelson responded most of the City's storm ponds are either wet detention ponds, which are designed to continually hold water, or storm water wetlands, which are wetlands with storm water draining directly into them.

Wenck asked if the City has an inventory of storm ponds and asked how many the City has.

Nelson responded the City has a map depicting where the storm ponds have been constructed, but not storm water wetlands. He estimated there are between 10 and 20 storm ponds in the City.

Johnson asked who is responsible for maintenance of the storm ponds.

Nelson responded that it depends on what was put into place at the time each storm pond was constructed. Maintenance could be responsibility of the City, homeowners associations or individual property owners.

#### Public Hearing

Appelhof, resident, asked how the SWPPP related to the Lake Independence TMDL.

Nelson responded the SWPPP works toward some of the same goals as the TMDL, including reducing the amount of phosphorus that is discharged into the lake.

**Motion by Wenck, second by Betts, to close the public hearing Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.**

Betts noted there are several storm ponds in the Fieldstone Woods subdivision and that many of the homeowners probably do not realize that they have a storm pond on their property.

**Motion by Wenck, second by Wallace, to direct staff to create an inventory of existing storm ponds that details their location, size and who is responsible for their maintenance. Ayes: Betts, Johnson, Spencer, Wallace and Wenck. Nays: none. MOTION DECLARED CARRIED.**

9. PUBLIC HEARING (8:30 P.M.) STEVE CROSBY, 4550 COUNTY ROAD 50, (PID'S 06-118-24-23-0005 and 06-118-24-23-0004) VACATION OF CROW AVE. RESOLUTION NO. 10-0427-01.

Kaltsas stated the applicant is requesting the City vacate the tract of Crow Avenue that directly abuts his property at 06-118-24-23-0003. The subject property and road right of way are located along the eastern side of County Road 50 and directly adjacent to Lake Rebecca Park Reserve. Crow Avenue exists only as a right of way and does not have any paved or improved surface. It does not appear that any utilities are located on Crow Avenue. The proposed vacation does not seem to substantially impact the City or surrounding applicants. The City has not received any public comments regarding the requested vacation.

Betts asked what would happen to the Crow Avenue property if the City vacates its right of way.

Kaltsas responded the Crow Avenue property would be added onto 06-118-24-23-0003.

Johnson asked what the width of the right of way is.

Kaltsas responded Crow Avenue is 30 feet wide and was platted as part of the Delrock subdivision.

Wenck asked if Crow Avenue was platted further east of 06-118-24-23-0003.

Kaltsas responded that neither Hennepin County nor City records show that Crow Avenue is platted any further east than 06-118-24-23-0003.

Public Hearing

No comments were received.

**Motion by Betts, second by Spencer, to close the public hearing. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.**

**Motion by Wenck, second by Wallace, to approve Resolution No. 10-0427-01. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.**

10. STEVE CROSBY, 4550 COUNTY ROAD 50 (PID'S 06-118-24-23-0005 and 06-118-24-23-0004 LOT COMBINATION. RESOLUTION NO. 10-0427-02.

Kaltsas stated the applicant would like to combine two of his three properties in order to construct an accessory building on a portion of the combined property. Currently the owner's principle structure is located on lot 06-118-24-23-0005. There does not appear to be a suitable location on the primary residence that would accommodate another detached accessory structure. The owner cannot construct an accessory structure on either of the adjacent properties because there is not a principle structure on either property. In order to use the adjacent properties, they would need to have an existing principle structure or would need to be combined with lot 06-118-24-23-0005 which has an existing principle structure. The three existing lots are considered lots of record, and as such, have individual building eligibilities in the before condition. None of the three lots currently meet the City's minimum lot size of 2.50 acres in the agricultural district. The proposed subdivision will bring the lots closer to compliance with the City's current standards. In the after condition, there would be a total of two lots with lot 06-118-24-23-0004 being eliminated along with its building eligibility. The City has not received any public comments regarding the proposed combination. The Planning Commission recommended approval of the combination.

**Motion by Spencer, second by Wenck, to approve Resolution No. 10-0427-02. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.**

11. KATHIE ARMSTRONG, 7888 COUNTY ROAD 6 (PID NO. 33-118-24-22-0028) REQUEST TO AMEND HER EXISTING CONDITIONAL USE PERMIT TO ALLOW FOR BAKED GOODS AND BEVERAGES TO BE SOLD AND SERVED ON THE SUBJECT PROPERTY. RESOLUTION NO. 10-0427-03.

Kaltsas stated the applicant is seeking an amendment to the existing Conditional Use Permit to allow the preparation, sale and serving of baked goods and non-alcoholic beverages. A Conditional Use Permit was originally issued for this property in 1971. The CUP provided for the following to be permitted on the

property: “A small wood-working shop for repairing wooden antiques, creating antique reproductions, wood carvings, etc., and merchandising of the same.” In 2007, the current owner went before the City to introduce her new business ask if anything needed to be updated with the existing CUP in order to operate her proposed business. At that time, it was determined that no additional uses were being added and the original CUP satisfactorily accommodated the uses proposed. The current business is comprised of a mix of uses that includes the creation and sale of antiques, crafts, gift baskets and more. Use of the premise for the purpose of preparing and serving baked goods is clearly not permitted under the current CUP for this property. Any amendment to an existing CUP must meet the same requirements established for granting a new CUP.

Kaltsas added the existing business on this property generates retail customers on a daily basis. The additional sale of baked goods for consumption on or off the premise would likely be compatible with the current use of the property. The proposed additional use would be accessory to the current use and is intended to bring additional customers into the store to shop for the other goods being sold. Off-street parking is provided for on the property. No expansion or alteration is proposed with this amendment. While this parking does not meet the City’s current standards, it has been used to serve this property since the original CUP was granted. Any modifications to the structure or intensification of use will be reviewed by the City’s Building Official and will be subject to all applicable standards and requirements. The additional uses proposed should not increase noise or offensive odors, fumes dust, or vibrations for the surrounding properties. The preparation and sale of baked goods should not increase the potential for a nuisance associated with the use of this property. The City has received two letters from neighboring property owners in support of the proposed amendment. The Planning Commission recommended approving the CUP amendment with several conditions, including one to limit the square footage of the food preparation and serving area to 1,000 square feet and to customer seating to 12 seats.

Betts asked what actions the City could take if parking becomes an issue on the site.

Kaltsas responded the City would have to review the use at that time and determine if it matched with the intent of the CUP.

Johnson noted that customers are able to park on the lawn at the site.

Armstrong stated she has had 20 cars park at her site during a larger event.

**Motion by Betts, second by Wenck, to approve Resolution No. 10-0427-03. Ayes: Betts, Johnson, Spencer, Wallace and Wenck. Nays: none. MOTION DECLARED CARRIED.**

12. APPROVAL OF RESOLUTION NO. 10-0427-04, ORDERING PREPARATION OF PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT OF BIDS IN THE MATTER OF THE LINDGREN LANE SANITARY SEWER EXTENSION.

Wenck asked if the Council should discuss financing options before it votes on the resolution.

Vose responded the discussion of assessments would happen at a later time, but staff is discussing the issue to determine possible financing options. He suggested the assessments be discussed at two meetings: one to hold a public hearing and review options from staff and another to vote on the assessments. Staff does not have a financing recommendation at this point.

Johnson noted that without bids, the Council does not have a clear idea of what the project cost and assessments will be.

Wenck stated he would be better able to decide how to vote on the resolution if he knew the issue about future subdivisions on Independence Road had been solved.

Vose stated staff is working with property owners along Independence Road to come to an agreement about potential subdivision. In addition, staff is working with Medina and Greenfield to determine the number of connections the City will be allotted.

Betts asked if the pipe on Independence Road would be able to accommodate future subdivisions.

Miller responded the pipe could handle up to 200 households.

Vose noted that there are other pipes within the sanitary sewer system that do have functional limitations. An amendment to the Tri-City Agreement would help protect Independence's sewer connections.

Skillen, resident, asked if there would be enough capacity in the pipe under County Road 11.

Miller responded the 50 to 60 connections Independence is requesting would not cause any issues with the pipe under County Road 11, but additional connections could cause bottlenecks in the future.

Johnson asked the Council if it wanted to open the agenda item up for public comment.

Betts noted connection to the sewer system would not be required for another 3 years, but because of the project's timing would probably be about 4 years.

Johnson asked Miller if he had received any phone calls from contractors interested in bidding on the project.

Miller responded he typically does not receive phone calls from contractors until after plans are completed and bids have been ordered.

Johnson stated he is in favor of ordering bids.

Wallace stated he is in favor of ordering bids and noted that the Council cannot determine the assessments without knowing the project cost.

**Motion by Betts, second by Spencer, to approve Resolution No. 10-0427-04. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.**

13. DIRECTION FROM THE COUNCIL TO HIRE AN APPRAISER FOR THE LINDGREN LANE SANITARY SEWER EXTENSION.

Vose stated Minnesota Law limits the amount of an assessment to the benefit the property receives from the project. Staff recommends evaluating the benefit the properties would receive from the proposed project. Vose noted his firm has worked with Nagell Appraisal & Consulting before and staff recommends approving the quote from the firm for appraisal services.

Johnson stated he believes the appraisal would be beneficial for the City to have. He asked if the City needed to request bids for appraisal services before choosing a company.

Vose stated that because the quote is for professional services, the City does not need to request bids. He added he recommends Nagell Appraisal & Consulting because he has worked with the firm before on other municipal service projects.

Johnson asked when the assessment hearing would be held.

Miller responded the assessment hearing would likely take place in September.

Wenck asked if the City would receive public comment on the assessment before deciding whether to award the bid in June.

Vose responded staff would likely present different methodologies for the assessments at the time the Council is deciding whether to award the bid.

**Motion by Wenck, second by Betts, to contact with Nagell Appraisal and Consulting for assessing services related to the Lindgren Lane Sanitary Sewer Extension Project. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none: MOTION DECLARED CARRIED.**

14. PLANNING COMMISSION REQUEST TO HAVE THEM START WORKING ON THE TEXT AMENDMENT PROCESS FOR THE RURAL VIEW LOT ORDINANCE.

Kaltsas stated the City's Comp Plan is currently going through Metropolitan Council approval process. It was approved by the Environmental Committee and the Community Development Committee and would be reviewed by the Met Council on April 28. He noted the City expects that the Comp Plan will be approved by the Met Council and brought back to the City Council for final approval in May.

Johnson noted that Met Council Member Roger Scherer attended the Community Development Committee meeting to speak in favor of the City's Comp Plan.

Kaltsas stated after the Comp Plan is approved by the City Council, the City will need to begin updating its zoning ordinance so they are in compliance with the Comp Plan. At its last meeting, the Planning Commission recommended beginning the text amendment process for the City's Rural View Lot Ordinance because there are some property owners that may want to subdivide once the Comp Plan is adopted.

Wenck asked what the cost would be to update the Rural View Lot ordinance.

Kaltsas responded it would be straightforward process that would include drafting an ordinance, holding a public hearing, bringing the amendment to the City Council for final approval and codifying the ordinance.

Spencer stated starting the text amendment process now was a way for the City to get a head-start on the ordinance amendments that will be necessary after the Comp Plan is adopted.

Johnson stated the City would need to remind applicants interested in subdividing their property that they would need to be careful about losing their Agricultural Preserve Program eligibility.

**Motion by Wenck, second by Spencer, to direct the Planning Commission to move ahead with the text amendment process for the Rural View Lot Ordinance. Ayes: Betts, Johnson, Spencer, Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.**

15. PUBLIC WORKS DESIGN MANUAL.

Spencer stated he is concerned about the legality and feasibility of updating the Public Works Design Manual as developers propose projects within the City. He noted the Manual would cost the City \$2,500 to \$3,000 to update and the cost is already budgeted for 2010. Spencer stated it would make more sense for the City to update the Manual instead of trying to make developers pay for it.

Vose stated the City does not have the legal authority to create a separate fee for developers to pay for the Manual update. He noted the City does require developers to pay for staff and consultant costs related to the development review process.

Wenck responded that if the cost is budgeted, the City still does not need to spend the money.

Spencer noted the City would need to update part of the Manual in order to obtain a new SWPPP permit.

Wenck stated there is nothing wrong with waiting to update the manual if no one is using it.

Spencer stated the manual refers to standards that do not exist anymore. He added he is concerned about keeping track of the updating process if it is done over a long period of time.

Kaltsas stated staff could evaluate how it would handle updating the manual all at once or over a period of time and could come back to the Council with more information.

Miller stated the last time the City updated its Manual was in 1993. He added there are several items in the Manual that are out-of-date and need to be updated.

Johnson stated he is concerned with the time constraints associated with reviewing a subdivision request and noted that the City might not have enough time to update the Manual before it is required to vote on a development.

Miller stated the Manual needs to be updated and then cross-checked with the Ordinances.

Johnson stated it might cost more to update the Manual in pieces.

Wenck responded that if the Manual is updated when developments are proposed, the developers would be paying for it. He added that it does not take long to update parts of the Manual.

Spencer stated the City will need to update the Manual when it applies for a new SWPPP permit.

Johnson stated he is concerned about how appropriate it would be to have developers paying for a book of standards they would then be required to comply with. He directed staff to review the issue and present options for updating the Manual at another meeting.

16. OPEN/MISC.

Nothing was added to the agenda.

17. ADJOURN.

**Motion by Wallace, second by Wenck, to adjourn the City Council meeting at 9:04 p.m. Ayes: Betts, Johnson, Spencer Wallace, Wenck. Nays: none. MOTION DECLARED CARRIED.**

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Respectfully submitted by Christina Scipioni, Recording Secretary