

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, SEPTEMBER 27, 2011 – 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 and Spencer

ABSENT: Council members Wallace and Wenck

STAFF: Clerk-Administrator Hirsch, Public Safety Director McCoy, City Attorney Vose, City Planner Kaltsas

VISITORS: Rod Johnson, Gabriel family

4. CONSENT AGENDA.

Approve:

- Approval of Council Minutes for September 13, 2011
- Approval of Resolution No. 11-0927-01 supporting the Minnehaha Creek Watershed District to manage the aquatic invasive species efforts in the region.
- Approval of Mayor Johnson's request to attend the National League of Cities Convention in Arizona on November 8 – 13th, 2011.
- Approval to transfer funds of \$14,610 from Fund 412 2007 G.O. Certificate of Equipment in to Fund 312 Equipment Certificate of 2007. Resolution No. 11-0927-02.
- Approval of Ordinance No. 2011-11, amending Wright-Hennepin franchise Ordinance No. 2011-02 with some minor changes.

Motion by Betts, seconded by Spencer, to approve the consent agenda. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

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

Mayor Johnson added the following items to the agenda:

- Blue and Phil Lenox, owners of PID# 13-118-24-32-0002, request approval to place land parcel into agricultural preserve program and enter into notice initiating expiration of the agricultural preserve
- Schedule November City Council meeting

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

Spencer: None
 Betts: None
 Johnson: League of MN Cities Improving Fiscal Future Committee Meeting, Northwest League of Municipalities, Quarterly Partnership for Active Living Hennepin County, Greater Lakes Country Food Bank, Lake Minnetonka Cable Commission taping session, Community Action Partnership Suburban Hennepin County Board Meeting
 Hirsch: Election Meeting, MS4 Review

7. DIRECTOR RAY MCCOY – WEST HENNEPIN PUBLIC SAFETY, AUGUST, 2011
 ACTIVITY REPORT

McCoy reported on the number of incidents for August. He stated that they have used 64.9% of their budget with 66.6% of the year completed.

McCoy stated there was an incident over the weekend with a car doing 80 mph in a 55 mph zone in a stolen car. He stated that the driver had several felony warrants out in several states and was fleeing from the scene of a home invasion.

McCoy reported two of the department’s long term reserve officers will be retiring. There will be a reception on Thursday, October 13th with a short program at 5:30 p.m. and it is open to the public.

8. APPROVAL OF RESOLUTION NO. 11-0927-03 AND RESOLUTION NO. 11-0927-04
 RECOGNIZING RESERVE OFFICERS PAT MEYER AND STEVEN HENTHORNE FOR
 THEIR MANY YEARS OF SERVICE TO THE COMMUNITY.

Motion made by Johnson, seconded by Spencer, to approve the resolutions recognizing Reserve Officers Pat Meyer and Steven Henthorne for their years of service. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

9. APPROVAL OF THE FOLLOWING DOCUMENTS NEEDED AS PART OF VINLAND
 NATIONAL CENTER’S AMENDED CONDITIONAL USE PERMIT DATED SEPTEMBER
 13, 2011:

- STORMWATER IMPROVEMENTS MAINTENANCE AGREEMENT
- EASEMENT FOR STORMWATER IMPROVEMENTS
- EASEMENT FOR PUBLIC RIGHT OF WAY

Vose reported that as part of Vinland Center’s Conditional Use Permit, they are required to provide easement dedication for public right of way on Ihduhapi Trail, provide easement dedication for

stormwater drainage pond/improvement, and enter into a stormwater improvement maintenance agreement with the City. The maintenance agreement clarifies Vinland Center is responsible for maintaining the stormwater drainage area and if Vinland fails to do so, the City has the right to maintain the area and assess the cost back to Vinland Center.

Motion made by Betts, seconded by Spencer, to accept the Vinland Center easements and enter into a Stormwater Improvement Maintenance Agreement with Vinland Center. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

Mayor Johnson stated the Medina's Public Works Department reported there is no interest in allowing additional sewer hook ups for the Vinland Center and YMCA camp at this time. They felt there is enough property for an on-site septic system. Mayor Johnson said he was surprised because there was some support for it in the past from the Medina City Council.

Kaltsas reported that when first working with Vinland Center, they thought the cost to put in an on-site septic system would be substantially lower than hooking up to City sewer. However, Vinland Center has gone through the design process of expanding the septic system and has seen the cost will be right in line with hooking up to City sewer. Spencer inquired if Vinland Center needs to expand the existing septic for Phase 1 of the project. Kaltsas replied Vinland has seen that they will be surpassing their threshold and do need to expand it for Phase 1. Council discussed having other entities become involved in the discussion.

10. RICHARD AND MARGIE JACOBS, OWNERS OF THE PROPERTY LOCATED AT 6590 COUNTY RD 11 (PID NO. 03-118-24-44-0003) AND JAMES JACOBS, OWNER OF THE PROPERTY AT 6550 COUNTY RD 11 (PID NO. 03-118-24-44-0001), REQUEST THE REZONING, FROM AGRICULTURE TO RURAL RESIDENTIAL, A MINOR SUBDIVISION AND LOT LINE REARRANGEMENT OF THEIR PROPERTY.
- ORDINANCE NO. 2011-01 AMENDING THE CITY ZONING CODE, INCLUDING ZONING MAPS
 - RESOLUTION NO. 11-0927-05 APPROVING A REZONING FOR THE PROPERTY LOCATED AT 6590 COUNTY ROAD 11
 - RESOLUTION NO. 11-0927-06 APPROVING A MINOR SUBDIVISION FOR THE PROPERTIES LISTED ABOVE.

Kaltsas provided a report to Council on the Jacobs request. He reported the Jacobs are requesting rezoning from A-Agriculture to RR- Rural Residential for a new 20 acre parcel on the eastern side, a lot line rearrangement and lot combination to allow a 20 acre parcel to be created and the remaining 17.2 acres to be combined with the adjacent property, and a lot line rearrangement to adjust a perimeter lot line for Tract C that runs through several existing buildings.

Kaltsas reported the rezoning is needed to allow them to break off a 20 acre parcel to give to their son James. The minimum lot size for A-Agriculture is 40 acres; therefore, in order to split off a 20 acre lot, the property needs to be rezoned RR-Rural Residential. The applicants will continue to use the parcel for agriculture purposes and do not intend to build any new structures on the property. A lot line currently runs through several existing buildings and the proposed lot lines will be adjusted to allow the proper setbacks from the property lines. This will correct a surveying error of many years ago.

Kaltsas stated the new 20 acre lot will have one building eligibility and could further be subdivided to realize a total of four lots in the future. However, the applicants have no plans to do so and any future subdivision would need to come before the Planning Commission and City Council again.

Betts inquired if there would be any complication for the owners in regards to Agriculture Preserve status with the change in zoning. Kaltsas replied the property is not currently in Agriculture Preserve. They found out from the County Assessor that if they maintain 10 acres of agriculture land, they will keep the same tax rate.

Kaltsas stated that some neighbors showed interest in the proposed rezoning and subdivision and wanted additional information, but did not express any concerns.

Kaltsas asked for a clarification of rezoning from A-Agriculture to RR-Rural Residential in the proposed ordinance.

Motion made by Spencer, seconded by Betts, to approve Resolution No. 11-0927-05 to rezone the property located at 6590 County Rd 11 from A-Agriculture to RR-Rural Residential. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

Motion made by Johnson, seconded by Spencer, to approve Ordinance 2011-10 amending the City of Independence Zoning Code, including Zoning Maps, to rezone 20 acres of property from the Agriculture District to Rural Residential legally described as the Easterly 698.00 feet of the Southeast Quarter of the Southeast Quarter of Section 3, Township 118, Range 24. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

Motion made by Betts, seconded by Spencer, to approve Resolution 11-0927-06 for a minor subdivision as requested by Richard R. and Margie Jacobs and James Richard Jacobs for the property located at 6590 and 6550 County Rd 11. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

11. DONNA MAE JOHNSON, OWNER OF THE PROPERTY LOCATED AT 340 COUNTY RD 19 (PID NO. 36-118-24-13-001), REQUESTS A MINOR SUBDIVISION FOR A RURAL VIEW LOT. RESOLUTION NO. 11-0927-07.

Kaltsas reported that Donna Mae Johnson has requested a minor subdivision to permit a rural view lot for the property located at 340 County Rd 19. The proposed lot would be approximately 5 acres in size and include the existing house and out buildings. The property is zoned Agricultural but guided for Agricultural Preserve. This property is also in the area of the City that is to be guided RR-Rural Residential in the future. So it is possible the applicant could seek rezoning of the property in the future, but it would require a Comprehensive Plan amendment.

Kaltsas reported that the current acreage on the property is 117.87 acres. The 5.01 acre parcel will meet the rural view lot requirements for lot size, minimum lot frontage required, and ratio of lot frontage to lot depth. The septic is in compliance and the owners have provided the city with a secondary septic site. The applicant would be required to pay park dedication fees on the 5 acre lot with the understanding that if the remaining acreage came in for subdivision in the future, the applicant would be required to pay park

dedication fees at that time. The amount of park dedication fees due at this time would be \$3500.00. He stated the parcel could yield a total of three lots for this property.

Johnson clarified the parcel south of the Luce Line is part of the whole parcel and does not have a separate property identification number. He asked the applicant's son if the property was ever put in agricultural preserve expiration. The applicant's son replied that it was not.

Kaltsas asked that the Resolution be corrected to show park dedication fees of \$3500.00 rather than \$7250.00.

Motion made by Betts, seconded by Spencer, to approve Resolution No. 11-0927-07 for a minor subdivision requested by Donna Mae Johnson for the property located at 340 County Rd 19. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

12. A PROPOSED TEXT AMENDMENT TO CHAPTER V OF THE CITY OF INDEPENDENCE ORDINANCE- SECTION 510.05, DEFINITIONS 515.07, NON-CONFORMING USES AND 520-21 STANDARDS FOR GRANTING VARIANCES
- ORDINANCE 2011-07 AMENDING CHAPTER 5 OF THE CITY CODE RELATING TO NON- CONFORMING USES.
 - ORDINANCE 2011-08 AMENDING SECTION 520.21 OF THE CITY CODE RELATING TO ZONING VARIANCES

Mayor Johnson stated that they are pulling the non-conforming use amendment from the agenda as staff has some concerns they would like to bring back to the Planning Commission.

Kaltsas reported on the standards for granting variances. He stated the City Attorney has drafted an ordinance to bring the City's Code in line with State Statutes to provide consistency.

Motion made by Johnson, seconded by Betts, approval of Ordinance No. 2011-08 amending Section 520.21 of the Independence City Code relating to Zoning Variances. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

13. APPOINTMENT OF TWO LIAISONS FROM THE COUNCIL TO WORK WITH STAFF IN NEGOTIATING UTILITY USE FROM THE CITY OF DELANO FOR A PROPOSED BIG BOX STORE

Johnson stated that staff would like a couple of liaisons from the Council to work with staff and the City Attorney to negotiate utilities. Hirsch stated that they do not have meeting dates yet and will begin to determine those once a team is put in place. Betts asked when and where the meeting would be. Betts stated that she could attend meetings if they were prior to 3 p.m. Spencer's preferences are for later in the day. Spencer felt if they were day meetings, Betts should go and if they are later afternoon meetings, he would go. Johnson stated that the more people involved helps to ensure that all issues and concerns are brought to the table.

Johnson inquired if the big box store will have initial discussion with the City of Delano before the meetings with them. Hirsch stated they would do it all at the same time.

Johnson stated that it boils down to what the costs are for utilities at the site. Hirsch stated there is enough room for the big box store to have an on-site septic system but the cost is prohibitive.

Johnson would like to see two Council members at each meeting. He stated that if three Council members were to attend, they would need to notice the meeting.

14. BLUE AND PHIL LENOX, OWNERS OF PID# 13-118-24-32-0002, REQUEST APPROVAL TO PLACE LAND PARCEL INTO AGRICULTURAL PRESERVE PROGRAM AND ENTER INTO NOTICE INITIATING EXPIRATION OF THE AGRICULTURAL PRESERVE

Motion made by Johnson, seconded by Betts, to approve Blue and Phil Lenox's request to enter PID # 13-118-24-32-0002 into Agricultural Preserve status and into Expiration Period. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

15. SCHEDULE NOVEMBER CITY COUNCIL MEETING

Johnson explained that because the first regularly scheduled meeting in November falls on Election Day, they will need to reschedule the City Council meeting. He stated that the Planning Commission meeting will be on November 14, 2011. He stated that while talking with Hirsch, she mentioned there were some minor items that Council could approve on November 15, 2011 following that Planning Commission meeting. Council agreed they could hold an additional meeting on November 29, 2011 only if necessary.

Motion made by Spencer, seconded by Betts, to reschedule the November 8, 2011 City Council meeting to November 15, 2011 and to have a second City Council meeting on November 29, 2011 only if needed. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

Johnson also mentioned they will need at least three City Council members to meet to canvass the election results as well.

16. OPEN/MISC.

No items.

17. ADJOURN

Motion made by Betts, seconded by Spencer, to adjourn the meeting at 8:25 p.m. Ayes: Betts, Johnson, and Spencer. Nays: None. Absent: Wallace and Wenck. MOTION DECLARED CARRIED.

Respectfully submitted,

Kimberly A. Olson, Recording Secretary