

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, APRIL 28, 2015 – 7:30PM

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, and Councilors Betts, Fisher, Wenck, and Spencer

ABSENT: None

STAFF: City Administrative Asst. Beth Horner, City Attorney Vose, and City Planner Kaltsas

VISITORS: Marcia Kreklow (Pioneer Creek Golf), Tom Stevens, Lynda Franklin, Oda Carlson, Joe Stevens.

4. CONSENT AGENDA

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- Approval of the City Council minutes from the Board of Review, 2015 as amended.
- Approval of the City Council minutes from the April 14<sup>th</sup> 2015 meeting.
- Approval of the Accounts payable ending the month of April 2015.
- Approval of a Temporary one-day liquor License to be held at the Pioneer Creek Golf Course for a non-profit fundraiser for a group called EMG, who raises money for charities.

**Motion by Betts, second by Wenck to approve the Consent Agenda. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

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

- Wenck added a request for an update on County Road 11
- Johnson asked the City Attorney about a closed session. It was determined not to be necessary.

6. REPORTS OF BOARDS & COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- Lake Sarah Meeting

**Wenck attended the following meetings:**

- None

**Fisher attended the following meetings:**

- Auditor Meeting

**Betts attended the following meetings:**

- WeCan Prayer Breakfast

**Johnson attended the following meetings:**

- Metro Cities Annual Meeting
- Highway 55 Coalition Meeting
- Love Inc. Heartland Annual Fundraiser
- Pre-audit Meeting
- Lake Sarah Meeting
- WeCan Prayer Breakfast
- Ridgeview Hospital Foundation from Waconia
- Community Action Partnership Board Meeting & Work Session
- Senior Community Services-Volunteer Appreciation Brunch- Mound Gillespie Center
- Minnesota Mayors Conference
- Lunch with the President of Crown College
- Orono School Board Meeting & Work Session

7. DIRECTOR OF PUBLIC SAFETY, GARY KROELLS – ACTIVITY REPORT FOR THE MONTH OF FEBRUARY & MARCH 2015

Gary mentioned through February there were 1,037 incidents. Of those 305 were in Maple Plain and 685 in Independence. This is an increase of 140 incidents.

Highlights: a medical in the 5800 block of Koch Crossing. The party was pronounced dead at the scene. A DWI arrest on County Road 90 & Hwy 12 due to a call by a concerned citizen. Gary said if as citizens we witness concerned drivers he suggested that we safely continue following the driver. A welfare check on 2200 block of County Rd. 90, a female was found to be heavily intoxicated. There was an attempted burglary on the 6200 block of Hwy 12 at a rented storage locker. A DWI arrest was made on County Rd 110 & County Rd 6. There was a DWI arrest/child endangerment on County Rd 110 and Anderson Estate Rd, where a male was arrested with his 7 year old child in the vehicle while intoxicated. A vandalism report occurred at the Rainbow Park warming house. Liquor license renewals-City of Independence requested 3 background checks. Welfare check at Vinland Center-a female party was unresponsive to staff due to a medication switch. There was a SWAT deployment at the 5800 block of Grandview Blvd in Mound, where there was a male who committed a felony assault against his girlfriend and barricaded himself in the home. A DWI arrest in the 5600 Pioneer Creek Dr. block.

Through March there were 1,687 incidents with 498 of those in Maple Plain and 1,096 in Independence. This is an increase in 231 more than that time in 2014. Gary warned us not to be alarmed because there has been more traffic enforcement since that time.

Highlights: A car-deer crash on 11 & 92 occurred, causing the driver to be taken to the hospital. Gary said most car-deer crashes occur in this vicinity because it is close to Lake Rebecca Park. A WHPS officer attended career day as a community outreach event at Rockford Elementary where he went to school as a child. There was a felony warrant arrest at the Vinland Center, where the male was taken to Hennepin County jail. There was a large 8'x16' building placed on Vinland's property and a male was seen running from it onto the lake. It was discovered this was placed there by the snowmobile trail association. A felony theft occurred at the UFC store, where WHPS were able to arrest the involved parties. A grass fire on the 5400 block of Lake Sarah Heights Dr. began as a legal burn with but grew out of control as an ash blew. WHPS assisted Medina with a felony arrest in Loretto. A dog owner at the 6800 block of Rachel Ridge Court discovered their dog had been shot. This case is being investigated pending further leads. A child was born by a mid-wife on the 5400 block of Bryant St., and while all went well, the female was taken to the hospital due to a minor complication. A male patient at Vinland experienced extreme mental issues and was placed on a crisis hold. He was then taken to the hospital. An old friend of Gary's donated several large bags of stuffed animals for emergency situations involving kids.

Gary thanked the Mayor for encouraging WHPS to once again produce and present their Annual Activity Reports.

Loretto Fire Department for a 'quiet zone/whistle free'-Hirsch brought this to Kroells' attention. Loretto has been trying for this. Kroells said he would not necessarily support this because it's a double track, and this involves 4 cities. Costs are involved as well. There was some discussion, but Johnson felt we could not budget for this. In the past, no formal request has been made to the City Council. Kroells added he lives in a whistle-free zone and he hears surrounding town's horns. Gary also mentioned May 7 is another highway coalition meeting.

8. PUBLIC WORKS DIRECTOR LARRY ENDE-SEEKING APPROVAL OF A RESOLUTION, AUTHORIZING ROAD AND STREET IMPROVEMENTS AND SEEKING BIDS ON THE PROJECT. RESOLUTION NO. 15-0428-01

- Vose prepared the resolution and mentioned the engineers have been working on plans and specs. This involves expenditure so we need to formalize our authorization. We ratify the work. Change on No.2 is to add dates.
- Timing-of public hearing. May 12 is public hearing. Interest in staff to get going because pricing is good. We can authorize staff to go ahead tomorrow with the bidding. Public hearing on abatement occurring later doesn't slow down the bidding process.
- In packet was a public hearing notice that went out to our 3 official papers but there is a glitch with one of the papers. It only got in 2, but will go in the 3<sup>rd</sup>. On the 12<sup>th</sup> we'll open the hearing and hear from anyone who's interested then. We'll continue the hearing so folks get a chance more than 10 days after publication in all our papers.
- Wenck mentioned we can't award bids until May 26. Ende said we're looking into June now. Since over \$100,000, we need 21 days. In paper May 5 runs May 11 run for 21 days which is June 2, go through bids, June 9 is next Council meeting. Need to approve resolution #15-0428-01

**Motion by Spencer, second by Fisher to approve Resolution, Authorizing Road and Street Improvements and Seeking Bids on the Project. Resolution No. 15-0428-01. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

9. JUSTIN VUCINOVICH, 5960 PAGENKOPF ROAD (PID# 14-118-24 33-0011) – BOHEMIAN WOODS SUBDIVISION – REQUEST FOR FINAL PLAT APPROVAL. RESOLUTION NO. 15-0428-02.

Kaltsas stated this is final plat request for Bohemian Woods Subdivision. This came in front of City in January as a preliminary plat to allow 3-lot subdivision. It is up before the city now for final plat request.

Kaltsas stated this development is approximately 20 acres on this parcel. Access to lots 2 & 3 is via a private driveway without frontage on a public street. Applicant has responded to and satisfied the requirements, and is now asking for final plat approval. The City has the final plat. Before us is a development agreement that has requirements, noting the access to lots 2 & 3 is access via private driveway. We need to require security on the private driveway construction to ensure it is constructed and approved by the city. Outside of this improvement there won't be any other public improvement-there won't be any grading. Kaltsas stated we are requesting a letter of credit from the developer to secure this improvement to ensure its being constructed to the standard we've established. Driveway exhibit shows how wide, how drainage will work, the culvert, etc... so we have a standard to go by in the development agreement.

Johnson asked if the Fire Department has had input since there is a deep curve in driveway. Kaltsas said he brought it to their attention but hasn't heard from them yet. Kaltsas said he'd check in again with Chief Dave. Johnson thought we should have something in writing regarding this. Kaltsas agreed and will follow up. Johnson questioned the access onto Pagenkopf Road. He asked if it has been clarified as to whether it is within the road right-of-way or an easement. Kaltsas stated they do have access out onto that piece.

Kaltsas stated there is a wetland survey between preliminary and final plat, and they are required to provide a wetland buffer easement. There will be a 20 foot buffer. It will be created, and required to sign a wetland buffer every 200 feet. Helps the buyers understand what is there. Park dedication fee of \$8,500 for the 2 new lots. The resolution includes criteria and comments which have been satisfied.

Fisher mentioned that on the developer agreement Taylor is spelled two different ways. Vose addressed that, and they will be changing that as well as a few others.

Wenck asked about the maintenance agreement for the driveway. Kaltsas said that has been done now, but it was after the packets went out. Maintenance agreement has been drafted by City Attorney.

Johnson questioned whether the property has been sold yet or not. Kaltsas said it's still owned by the Meyer Trust. There will be a closing this week. Application is made by Justin Vucinovich, the owner is the Meyer Trust. Johnson asked Paul Meyer to the podium. Meyer said this process has been taking a very long time, and we just want it sold. Meyer stated they are asking if it can just sell and then let Justin take care of the rest of the issues.

Johnson asked if the buyer has a bond. Johnson asked for process clarification. Vose said its common where land is subdivided and sold, that the sale transaction is conditioned upon the development approval-

the seller has to be on board with the approval. There may not be a buyer willing to close until the City is done with the subdivision approval process. The closing on the land transaction occurs on the same day that the plat is getting filed, and the agreements/documents are signed. Kaltsas said escrow set up by developer in a letter of credit. Kaltsas stated we give final approval of agreement and that signing signals the final plat which triggers the closing.

**(Resolution No. 15-0428-02) Motion by Wenck, second by Betts to approve Resolution No. 15-0428-02). Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

10. TOM STEVENS, 6250 HIGHWAY 12 (PID #23-118-24 33-0011) REQUESTING APPROVAL TO BRING A NEW CAR DEALERSHIP RENTING THE USED CAR LOT AT THE ABOVE ADDRESS

- Kaltsas said this is zoned to be commercial light industrial. In this, auto sales are not specifically identified. Historically, we know this was used as car sales for quite a few years. It looks like there may have been some kind of special use. My initial response was it should be conditional use permit. We allow agricultural implement sales, but not auto sales. The file dates back to the 1970's. The record is incomplete and it isn't spelled out.
- Joe Stevens came forward and explained that they planned to move in May 1. It was used as a used car sales lot for 20 years, hasn't been used as that for over a year, so thought maybe they had a conditional use permit expired. Kaltsas reiterated it is unclear if there was a CUP or not. We are hoping to get approval so he can at least get his license to proceed with his business.
- Vose stated that at the time this initially was used as a used car lot, it could have been a permitted use or they could have said there are conditional uses. Vose apologized for not knowing the history.
- Johnson stated he did not recall requiring a CUP for cars; it was light industrial for that entire area.
- Kaltsas stated there was a mention of 'car sales' back in 1973 in some planning commission minutes, but that was all he could find.
- Johnson asked if we could make a motion to proceed with car sales and maybe revisit this at a later date.
- Wenck stated it seemed like we could do it for 'similar' to implement sales.
- Vose stated the City Council could it approve it as a similar use if they wanted to get something done with it ASAP. He said that would be allowed under City code. He said the consequence of that would be that the City is allowing that in an industrial zone. Vose stated they could permit that now which would change the code and then in the future they would have to amend that new code if they wanted to further change it. He said this would mean that this applicant and other others that were permitted during this time would be grandfathered in if the code was amended.

**Motion by Fisher, second by Wenck to conclude that used commercial auto sales are sufficiently similar to commercial light industrial sales and the lot use is approved. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

11. MISC./OPEN

Verizon Update

- Kaltsas reviewed the request of the telecommunications tower and the approval of that based on the requirement that it was moved to an approved location on the property. The owner of

the property is not accepting that proposed location. The applicant (Verizon) and the owner of the property are requesting that they have an opportunity to go back to the Planning Commission and give notice again to neighboring properties with a revised proposal.

- Johnson stated he did not think this issue was going to be resolved until the applicant and owner sat down and spoke with the neighbors.
- Spencer asked if the next proposal was going to be about moving the location of the tower or trying to justify the same location.
- Kaltsas stated that they are open to moving it.
- Wenck stated he agreed with Johnson that they need to get all parties involved to come to some sort of agreement before it is brought back before the planning commission.

**Motion by Wenck, second by Betts to have the request sent back before the Planning Commission. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

#### County Road 11 Update

- Vose stated there is evidence of commercial use and they are documenting through photos and testimony.
- Vose stated there is one caveat and that is one of the properties has a CUP for an accessory outbuilding and that is where some of these activities are occurring. He stated these issues will need to be brought before Council so the CUP infractions can be dealt with and that would also address the seriousness of the issue.

#### Joint Council Meeting May 4<sup>th</sup>

- Johnson stated the meeting needed to be moved to a date when all parties could attend. Calendars will be looked at and dates available sent to Horner.

**Motion by Spencer, second by Betts to move the meeting to a future date as coordinated by all parties. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

## **12. ADJOURN**

**Motion by Wenck, second by Fisher to adjourn the City Council Meeting at 9:00. Ayes: Johnson, Betts, Fisher, Wenck, and Spencer. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

Respectfully submitted,

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Trish Bemmels, Recording Secretary