

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, JULY 19, 2006 – 7:00 P.M. – ROCKVILLE CITY HALL

The meeting was called to order by Mayor Brian Herberg. Roll Call was taken and the following members were found to be present: Mayor Herberg, Vern Ahles, Jeff Hagen, Ed Karls, Lloyd Lommel, Don Simon, and Greg Simones arrived at 7:09 p.m. Absent: None

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Greg Stang, Attorney Jim Mogen, & Engineer Scott Hedlund.

Planning Commission members were: Jerry Bechtold.

Others present were: Jode & Gregg Boldt, Cheryl Lommel, Brian Hatten, Jim & Bonnie Skaja, Doris Skaja, Aaron Cheeley, John Kirscher, Tudie Hermanutz, Duane Willenbring, Dave Volkmuth, Mike & Joan VanderWeyst, Clarence Bloch, Bruce Conrad, Ken Zumwalde, Vince Schaefer, John Willenbring, Kathleen Stanger.

ADDITIONS TO THE AGENDA – Motion by Member Ahles, second by Member Simon, to approve the additions to the agenda for discussion purposes.

AYES: Ahles, Hagen, Herberg, Karls, Lommel & Simon

Motion passed on a 6 to 0 vote.

CONSENT AGENDA –

Motion by Member Lommel, second by Member Ahles, to approve the consent agenda as presented:

a) **Approve the Minutes of 0705/06 & 07/13/06**

b) **Treasurer's Report of 07/19/06**

c) **List of Bills and additions of 07/19/06**

Accounts Payable CK #008132 to 008199

\$112,922.34

Payroll CK #002409 to 002435

\$ 12,181.93

AYES: Ahles, Hagen, Karls, Lommel, Simon

ABSTAINING: Herberg

Motion passed on a 5 to 0 vote.

BOARD/STAFF REPORTS

POLICE REPORT – A written report was presented indicating 69 contract hours for the month of May, 2006.

EMS REPORT – There was no report.

MAINTENANCE DEPARTMENT - Greg Stang reported on the following:

TAMARACK COURT DRAINAGE ISSUE – Greg Stang reported that there is an easement present, but it is a grey area, and he is not sure this should be a city issue. The Maintenance Department worked with a contractor to fix it and they had problems. The pipe cleaned out real good. In the area where the pipe is offset they were going to hand dig, but the soil was too dry. They had to put in a new perforated pipe, and 40 to 50 feet north of the pipe is a weeping willow tree. The cost was approximately \$1500 to repair. Greg Stang suggested that if we are going to continue maintenance we need to repair it right and assess benefiting property.

SEAL COATING – The project was done in one morning. In town sweeping was done by a local contractor, but it is the rural area where they were going to sweep it outside. \$500.00 includes the rental of equipment. Rockville went together with City of Cold Spring and Stearns County – we saved on this project by going together.

WALNUT STREET UPDATE – Greg Stang indicated that he is getting quotes to repair it. The problem is that it is too flat and there is not enough fall so it was hard to get bids.

PLANNING COMMISSION – Chair Jerry Bechtold reported on the following:

WADE SKAJA PRELIMINARY PLAT – Jerry Bechtold reported that the Planning Commission tabled action so that Wade Skaja could meet with Stearns County to reconsider his proposal for a main house and possible guest house.

BARRY & JODE BOLDT – CONDITIONAL USE PERMIT- Jode Boldt asked that this be tabled until August as she would like to move the lot line to accommodate the new house.

MARK & DONNA GROSS VARIANCE – After review and interpretation of the ordinance the attorney and Planning Commission found out they did not require a variance because the impervious surface does not apply to the R-1 District. The Planning Commission recommends the Gross's fee be reversed and that the ordinance be changed to reflect the same verbiage as the Shoreland District.

JAMES AND TONY SKAJA – FINDINGS OF FACT REGARDING THE STORAGE OF TWO RV'S ON A LOT

Rena Weber read the findings of fact as approved at the Planning Commission meeting on 07/11/06:

- a) Unique Circumstances – The unique circumstance occurred as a result from the acts of the property owners.
- b) Necessary to preserve reasonable use of the property – This is a single family zone which is already being enjoyed by the property owner. The proposed use is neither reasonable nor expected in the zone.
- c) Not Merely Economic – The property owner has indicated the request is being made due to economic considerations and has not provided any justification independent of financial concerns.
- d) Maintains the Character of the Neighborhood – While the use is shared by a few non-conforming properties in the area the standards established for the area under the zoning code and comprehensive plan do not allow for this use.

Bonnie Skaja appeared before the Council and asked that before a final decision is made they would like to appeal to council. Two sources of information were referred to in the appeal:

Anne Nelson's Letter from County of Stearns dated 6/28/05

Shoreland Overlay District Summary Section 10.2.12.6

Bonnie Skaja indicated they have removed one RV already and would not keep the other RV on this lot for more than 30 days. On 7/2/06 they drove around both Grand & Pleasant Lake and found 14 more properties with RV's on their lots. They just want to be treated like other citizens.

Jim Skaja asked for a clarification of keeping one RV only.

Lloyd Lommel asked what the request before the council is. Rena Weber reported that the request was for a variance to house two RV's and a cabin on one lot. The Planning Commission denied the variance. The Skaja's have removed one RV.

Discussion was held regarding the need for a new application for a variance from the duplex requirements or this may need variance from setback requirements. The Zoning Administrator will review the current situation to determine if they will have to go through an entire application process.

Motion by Member Lommel, second by Member Ahles, to deny the request to house two RV's and one cabin on a lot in the Shoreland District to James & Tony Skaja. Further the City Council includes the Findings of Fact as approved by the Planning Commission as the basis for denial.

AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones

Motion passed on a 7 to 0 vote.

Member Hagen asked what is the city's requirement to enforce this city wide (14 others). Mayor Herberg stated that action taken has been on a complaint basis in the past. Jim Mogen indicated that if the council wants staff to enforce then that is it, but it should not become something where we discriminate.

Jerry Bechtold suggested the city send out a reminder to residents on what they can do.

HEISERICH/MINNERATH ADMINISTRATIVE PLAT – Jerry Bechtold reported that this was approved by the Planning Commission.

TOUR OF CITY – Jerry Bechtold reported that the Planning Commission has set aside 9/16/06 as the date they would like to take a tour of the city and its environments with the City Council.

ROCK FEST – Kathleen Stanger reported on the following:

Kathleen Stanger reported that the financials are not all in yet as bills are still coming in. Early reports are that the festival was awesome and Kathleen just wanted let the council know that it turned out great. There were gaps in the parade, but that will be discussed at the next meeting which is Thursday. The Committee will be going over pros and cons of the event. The Rock Fest meets the last Wednesday of each month. An appreciation event is planned for August 19th at 5:00 p.m. – El Rancho Manana Campground, Richmond, MN.

PARK & RECREATION BOARD – Rena Weber reported that the Park & Recreation Board is presenting a park rental form and ordinance for council consideration at the 8/2/06 meeting. A copy of both documents was included in the council packets.

BUDGET MEETING – Rena Weber requested council approval to schedule a Budget Committee meeting for 8/21/06 – 6:00 p.m. at City Hall.

Motion by Mayor Herberg, second by Member Ahles, to schedule a budget meeting on 8/21/06 at 6:00 p.m. as requested.

AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones

Motion passed on a 7 to 0 vote.

USE OF CITY HALL – Rena Weber reported that she is getting a lot of requests to hold meetings at the new city hall. Rena wanted direction on who can use the building, under what conditions, and should there be a fee. Greg Simones reported that the EDA left it up to the council.

It was determined that more research on liability issues and what other cities do should be done before a decision is made. A review of the lease should be done to see who has control.

RECESS THE MEETING TO TALK TO ATTORNEY ON POTENTIAL LAWSUIT – At this point Mayor Herberg announced that the Council would close the meeting and adjourn to the Administrator/Clerks office in order to talk to the League of MN Cities attorney about a resolution to a potential lawsuit at Country Side Addition. Time: 7:59 p.m.

CALLED BACK TO ORDER - Mayor Herberg called the meeting back to order at 8:27 p.m.

Motion by Member Lommel, second by Member Simon, to approve the settlement agreement in the case of Egger and Templin Vs Duane & Diane Willenbring, Short Elliot Hendrickson, Inc. and the City of Rockville. The City agrees to contribute \$500 toward the cost of maintenance to the storm water drainage improvements in the Country Side Addition and receive contribution and reimbursement from the other parties for its completion.

AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones

Motion passed on a 7 to 0 vote.

OLD BUSINESS – There was none.

NEW BUSINESS

WAKEFIELD TOWNSHIP BOARD MEMBERS – John Willenbring and Ken Zumwalde were present at the meeting to request a road maintenance agreement with the City of Rockville. The areas of concern are:

- 133rd Avenue and Glacier Road snow plowing and who will do what
- 133rd Avenue should be overlaid which is a substantial amount of money
- 210th street – snow plowing.

Mayor Herberg thought that the agreement was that Rockville would plow snow on Glacier road as there is no turn around. Major maintenance items like 133rd Avenue where they want to do an overlay would have to get special consideration. Mayor Herberg also reported that in talking to Bauerly's the price quoted to Wakefield Township at \$30.00 ton is a deal.

It was determined to add this request to the Street Committee meeting agenda.

ADDITIONS TO THE AGENDA

ORDINANCE AMENDING THE SEWER RATE TO PROVIDE FOR A PENALTY - Attorney Jim Mogen reported that Ordinance 2003-08A has enforcement language in it so there is no need to amend the ordinance. The ordinance lists out the penalty and administrative fine language with 2 limitations and it being \$1000 day and no more. It was determined that residents would need to come before the city council who in turn would make the final determination.

JOHN KIRSCHER – John Kirscher stated he has been assessed for the two sewer stubs and asked that this be removed since he has combined the two lots into one.

Attorney Jim Mogen stated that he has questions regarding the release of liability form that the City Council wished to have signed. Discussion was held on the following:

- The well has been tied to the existing cabin to McNamara so we don't have to drill another well.
- Get two pieces of property combined so there will not be another structure in the future.
- The Release of Liability that Kirscher signs is that he will not be making a claim on another well.
- The City is making this effort now and Kirscher cannot come back to the city if this does not work out.
- Kirscher needs to sign the release of liability due to the fact that he intends to tear down both cabins and build one new home in 4 years.
- The Boundary Commission is combining two lots into one.

Member Hagen asked if he is creating a duplex here so he should get a variance for this. Jim Mogen recommended that Kirscher enter into an agreement that in exchange for reassessing this property he will not be able to build two units or the City should make him go through the variance procedure.

ASSESSMENT QUESTION – Jim Mogen reported that the law does allow the city to re-assess for an improvement that did not happen. Rena Weber would send a notice to the County Auditor and request that any assessments he has paid be returned not in excess of benefit received. This does not require a public hearing. By combining the two lots John Kirscher has agreed to connecting the cabins to one well.

Cancel the assessment - \$14,387.90 includes costs for main line, connection and grinder station. Jim Mogen stated the council would not be authorized to refund any of the trunk main and capacity.

- Conditional on Mr. Kirscher signing the agreement and this should be recorded on the deed

John Kirscher stated that he fully understands what is going on, but does not agree.

Motion by Member Simones, second by Member Lommel, to continue the process of connecting the second well to the existing residence, and further to rescind that portion of the \$14,387.90 assessment that we can rescind by law that was not put in.

AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones

Motion passed on a 7 to 0 vote.

ENGINEER REPORT – There was no report.

COMMITTEE REPORTS

MAYOR'S REPORT – There was no report.

ADMINISTRATOR'S REPORT

NIMS TRAINING – Rena Weber reported that Marv Klug, Stearns County EMS Director, is requesting a signed letter from the City certifying that all people who were required to take the NIMS training had in fact done so. Information will be given to anyone who has not taken the classes.

TRANSFER OF FUNDS – Rena Weber requested approval of a transfer of funds to final out the labor documented for the sewer project in the amount of \$2,181.42.

Motion by Member Lommel, second by Mayor Herberg, to approve the following journal entry:

<i>Journal entry</i>	<i>Debit</i>	<i>Credit</i>	<i>Project code:</i>
<i>E407-41000-700</i>	<i>\$2,181.42</i>		<i>200301</i>
<i>G407-10600</i>		<i>\$2,181.42</i>	<i>200301</i>
<i>G602-10600</i>	<i>\$2,181.42</i>		<i>200301</i>
<i>R602-49490-39203</i>		<i>\$2,181.42</i>	<i>200301</i>

AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simonos
Motion passed on a 7 to 0 vote.

OPEN FORUM

John Kirscher – 11063 Hubert Lane, had a comment in regards to the many, many holes in Hubert Lane. He has to go out with a shovel and scoop up the sediment that is just sand now. So far he has put about a yard of sand that just keeps washing onto his lawn.

Jerry Bechtold – reported that meetings are occurring around the county to review Stearns County's Comprehensive Plan. Jerry Bechtold encouraged the council to attend the 8/14/06 meeting at the Paynesville Senior Center.

Duane Willenbring – stated that as a member of the EDA they have not had a lot of time to consider the lease between the City and the EDA. Duane urged the Council to do the policy setting in a collective manner as there may be some non-tax revenue that could be gained. Duane suggested that a Joint Task Force be created to have the right movement forward.

Dave Volkmuth – 25754 Lake Road, had two concerns:

Sewer project reimbursement – Mr. Volkmuth asked what was the status on his reimbursement for sod stating this has taken too long. Rena Weber reported that this will be discussed at the 7/26/06 Street Committee meeting.

Use of the park – Mr. Volkmuth questioned why you have to apply to park cars on the city lot. Does that mean that on August 13th he can't park cars over in the lot by his house?

ADJOURNMENT – Motion by Member Ahles, second by Member Simon, to adjourn the meeting at 9:32 p.m. Motion carried unanimously.

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

BRIAN HERBERG
MAYOR

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