

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, JULY 5, 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, Council members Vern Ahles, Jeff Hagen, Ed Karls, Don Simon & Greg Simones. Absent: Lloyd Lommel.

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

Others present were: Mark Ruff, Jon Lentz, Tудie Hermanutz, Ev Balko, Harold Rosenow, Mike & Joan VanderWeyst, Butch Voigt, Bill Molitor, & Dave Volkmuth.

**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, Simon, & Simones**  
***Motion passed on a 6 to 0 vote.***

**CONSENT AGENDA: *Motion by Member Ahles, second by Member Karls, to approve the consent agenda as presented:***

- |    |  |                    |
|----|--|--------------------|
| a) | <i>Approve minutes of 06/21/06</i>                     |                    |
| b) | <i>Approve Treasurer's Report of 07/05/06</i>          |                    |
| c) | <i>Approve List of Bills and Additions of 07/05/06</i> |                    |
|    | <i>Accounts Payable CK #008077 to 008131</i>           | <b>\$41,090.76</b> |
|    | <i>Payroll CK #002399 to 002408</i>                    | <b>6,496.87</b>    |

**AYES: Ahles, Hagen, Karls, Simon, & Simones**

**ABSTAINING: Herberg**

***Motion passed on a 5 to 0 vote.***

**BOARD/STAFF REPORTS**

**POLICE REPORT** – Deputy Jon Lentz reported that there were 65 contract hours for the month of May.

Member Simon asked if there were any fireworks complaints over the 4<sup>th</sup> of July weekend. Deputy Lentz replied that there were not really complaints.

**FIRE DEPARTMENT** – There was no report.

**PLANNING COMMISSION** – Rena Weber reported on the following:

**MARK AND DONNA GROSS – ACCESSORY STRUCTURE VARIANCE** – Rena Weber reported that the Mark & Donna Gross variance request was tabled in order to view the site.

Member Hagen questioned the definition of impervious surface and whether that is included in the R-1 District requirements. No action was taken.

**ANTHONY AND JAMES SKAJA – REQUEST TO HOUSE TWO RV'S ON A LOT** – Rena Weber reported that Anthony & Jim Skaja are requesting a variance to house 2 RV's and a cabin variance on the same lot. Seven letters not in favor of the variance were received. The Planning Commission denied this request.

Jim Mogen suggested the Council table action on this until they have the Planning Commission Findings of Fact identified in writing.

***Motion by Mayor Herberg, second by Member Simon, to table action on the Skaja Variance request until the Findings of Fact are presented.***

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

***Motion passed on a 6 to 0 vote.***

DAN & KATHY HANSEN – INTERIM USE PERMIT – Rena Weber reported that this was tabled too as Mr. Hansen has a number of issues that need attention. One thing that the Council will need to determine is the amount of credit that should be secured (in the event Dan does not complete the project). Rena reported that it was her understanding that Dan Hansen supplied Stearns County with a \$15,000 letter of credit for the Wetland Bank creation. If that is still the case then maybe \$5,000 is enough for us. Rena further reported that she had also heard Dan Hansen say that the Stearns County letter has been deleted as Stearns County does not require them. If that is the case then we will need \$15,000.

Rena Weber reported that she did some research on gravel tax. Arlen Westin of Stearns County informed her that this is based on what the hauler tells them they are taking out:

- 7 cents per ton or 10 cents per cubic yard
- Of this Stearns County gets 60% for the County Road & Bridge Fund and 10% for a Trust Fund and the Townships & Waite Park split the remaining 30% based on the amount being generated from their areas.

Jim Mogen was asked if there is another way to do this and skip the County. Jim Mogen indicated that instead of a gravel tax the city could collect something on the development agreement so that we can be reimbursed for the road work.

Discussion was held regarding:

- Letter of credit – renew annually with a 60 day notice
- \$15,000 letter of credit – for restoration only
- City letter of credit for mining pit – Scott Hedlund to figure out the amount of cost to repair 230<sup>th</sup> Street should it be necessary

Member Hagen asked if we really want another mining pit. No action was taken.

A public hearing was held and there was no opposition to the request.

#### **PUBLIC HEARING – PRAIRIE BUSINESS PARK & VACATION OF EASEMENTS –**

Rena Weber read the notice of hearing. The procedure would be to approve the Vacation of Easements first and all should be in order for approval.

Rena Weber further indicated that regarding the preliminary and final plat:

- She would be doing an Administrative Plat for the final piece of “land swap” between the Heiserich’s and Minnerath. This is scheduled for approval at the 7/11/06 PC meeting.
- Jim Mogen is finalizing the developer’s agreement with Bill Molitor based on Scott Hedlund’s comments so this should be ready for tonight’s meeting.

Member Simon asked Bill Molitor if there is there more of a demand for smaller lots.

Member Simon indicated that he does not want to go for bigger lots in the future.

Bill Molitor stated there is a request for smaller lots, but the cost of assessments is of concern. Two potential clients are interested in the smaller lots.

Mayor Herberg questioned the need for drainage easement between Lots 6 & 7. Scott Hedlund explained the approval in that this is covered in the developer’s agreement.

***Motion by Member Ahles, second by Member Simones, to close the public hearing at 7:41 p.m.***

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

***Motion passed on a 6 to 0 vote.***

Jim Mogen addressed the agreement for Business Park stating that it is a new development agreement which incorporates the existing agreement into the new development. Jim explained the changes are due to the new water/sewer hook up fee and also requiring two letters of credit. Cleaning of sediment ponds is address as well. If a sale occurs, Bill Molitor has to indicate what the needs are and provide necessary agreements, and have securities in place to insure conditions are met. This is controlled by deed restrictions. The Stearns County Recorder is not to accept a deed until the city signs off.

***Mayor Herberg introduced the following Resolution and moved for its adoption contingent upon the developer’s agreement getting signed.***

**RESOLUTION NO. 2006-20****RESOLUTION VACATING CERTAIN EASEMENTS IN PRAIRIE INDUSTRIAL PARK**

**WHEREAS**, Prairie Industrial Park is a plat located within the corporate limits of the City of Rockville (the "City") and dedicated in the plat of Prairie Industrial Park as recorded in the office of the Recorder in and for Stearns County, Minnesota;

**WHEREAS**, the Developer (Bill Molitor) desires to relocate certain easements on the eastern portion from its current, platted location in order to re-plat said area into smaller lots;

**WHEREAS**, the Legal description for the Vacation of Drainage and Utility Easements in the plat of Prairie Industrial Park, Rockville Minnesota is:

That part of the 6 foot wide platted drainage and utility easement which lies parallel, contiguous and over the south 6.00 feet of Lot 6, Block 2, PRAIRIE INDUSTRIAL PARK, according to the recorded plat thereof, Stearns County, Minnesota excepting therefrom that part of said 6 foot platted drainage and utility easement which lies westerly of a 87.00 foot radius curve, center of circle of said curve being the center of the cul-de-sac of Prairie Court as dedicated on said plat of PRAIRIE INDUSTRIAL PARK.

And

That part of the 6 foot wide platted drainage and utility easement which lies parallel, contiguous and over the north 6.00 feet of Lot 7, Block 2, PRAIRIE INDUSTRIAL PARK, according to the recorded plat thereof, Stearns County, Minnesota excepting therefrom that part of said 6 foot platted drainage and utility easement which lies westerly of the 12 foot wide platted drainage and utility easement being northeasterly of and parallel with Prairie Court as dedicated on said plat of PRAIRIE INDUSTRIAL PARK.

And

That part of the platted drainage and utility easement of Lot 5, Lot 6, and Lot 7 of Block 1, PRAIRIE INDUSTRIAL PARK, according to the recorded plat thereof, Stearns County, Minnesota lying southeasterly, easterly, and northerly of the following described line:

Commencing at the southeast corner of said Lot 7; thence westerly along the south line of said Lot 7, North 86 degrees 54 minutes 45 seconds West, plat bearing, for 320.42 feet to the point of beginning; thence North 48 degrees 59 minutes 3 seconds East for 316.05 feet; thence North 12 degrees 50 minutes 43 seconds East for 221.45; thence North 34 degrees 13 minutes 35 seconds East for 548.03 feet; thence South 84 degrees 07 minutes 27 seconds West for 223.09 feet; thence North 28 degrees 06 minutes 08 seconds East for 173.74 feet; thence North 86 degrees 17minutes 48seconds West for 309.16 feet; thence South 79 degrees 49 minutes 52 seconds West for 11.72 feet, more or less, to the point of intersection with the west line of said Lot 5.

**WHEREAS**, the Planning Commission has reviewed the vacation and recommends its approval;

**WHEREAS**, a public hearing was held on July 5, 2006, to consider the owner's vacation request;

**WHEREAS**, after review of the matter, and based on the planning commission's recommendation and the testimony and evidence received at the public hearing, the City finds that the vacation of the Vacated Parcel as described above is in the City's best interest.

**NOW, THEREFORE**, the Rockville City Council resolves:

1. The Vacated Parcel as described above is hereby vacated.
2. The City Council directs the City Administrator-Clerk to take all necessary action

to effect the proper vacation of the easements.

***The motion was duly seconded by Member Hagen with the following vote being taken:***

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

***Motion passed on a 6 to 0 vote.***

07/05/06

**Mayor Herberg introduced the following resolution and moved for its adoption:**

**RESOLUTION NO. 2006-21**

**RESOLUTION APPROVING OF A RE-PLAT OF PRAIRIE INDUSTRIAL PARK**

**WHEREAS, William Molitor presented a Preliminary & Final Plat to be known as Prairie Business Park, and;**

**WHEREAS, concerns of the Planning Commission were addressed, and**

**WHEREAS, persons wishing to address the Council were given an opportunity to do so.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ROCKVILLE, STEARNS COUNTY, MINNESOTA:**

- 1. Said Preliminary & Final Plat dated 7/3/06 is hereby approved as presented and subject to the signed developer's agreement with William Molitor.**

**The motion for the foregoing resolution was duly seconded by Member Simon with the following vote being taken:**

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

**Motion passed on a 6 to 0 vote.**

**ROCK FEST** – Coordinator Kathleen Stanger reported on the following:

Checks were presented for payment this evening and approved earlier. An updated list of events was presented for review.

**NEW BUSINESS**

**SANITARY SEWER HOOKUPS** – Rena Weber presented a listing of 34 residents who have not hooked up to the sanitary sewer system along with copies of letters that were sent to residents giving their time frame for mandatory hook up to the system. To date the City has been charging the seasonal rate to the residents, but effective 7/1/06 the full rate will be charged. Discussion needs to occur regarding a penalty from here on out.

Mayor Herberg suggested the city hire someone to do it.

Member Simones suggested that we make it a progressive increase for every month that they don't hookup.

Member Hagen suggested the charge be: \$100 for the first month \$200 second month, and so on which is about a 5% increase.

Jim Mogen indicated that this needs an ordinance change.

The Council discussed what happens in winter. A signed contract can be a waiver of penalty or money can be placed in escrow.

**Motion by Member Simones, second by Mayor Herberg, to adopt a policy imposing a fine of \$100/first month, increase by \$100 per month thereafter until the system is installed effective 7/31/06. Furthermore, an amendment to the ordinance shall be considered on 8/2/06.**

**AYES: Ahles, Hagen, Herberg, Simon, & Simones**

**NAYS: Karls**

**Motion passed on a 5 to 1 vote.**

**ADDITIONS TO THE AGENDA** – TOM VAN LITH WATER IMPROVEMENT – Mark Ruff, Ehlers & Associates, and Scott Hedlund were present to review a cash flow scenario for the Tom Van Lith development. Scott Hedlund gave a brief summary of the request to develop and the cash flow scenario. The going rate in the Pleasant Lake water study for Tom Van Lith is \$170,000 Vs \$560,000 so there is a bigger risk to this.

Mark Ruff reviewed the two spread sheets indicating there are certain assumptions:

- 20 years, interest rates have been rising over the last six months 4.25% to 5%
- Voigt – will start to pay in 2015
- SAC WAC increase by 5% each is a must

Mark Ruff cautioned the Council on there being a million dollar excess at 2025 stating that this can't be depended upon. Some of the developers have not been paying their sewer assessment. This is a piece of information but not the defining situation. The bigger issue is how development occurs. Rockville is new in building a brand new system so you need the hookups.

Scott Hedlund recommended not using private wells on the Van Lith development. Scott further urged the council to review the number of building permits per year.

Member Simones indicated that he would like to look at the worst case, most likely case, and best case when he evaluates the sensitivity of a project.

This has been referred back to the street committee.

#### **NEGOTIATING FOR CITY AGAINST THE COUNTRY SIDE ADDITION SETTLEMENT**

Rena Weber reported that the LMC attorney is seeking a representative from the city on 7/17/06 to negotiate on behalf of the city to resolve this 3 year issue. Rena explained the history in that the city was in the lawsuit and then we were taken out, however, we are still being considered.

Mayor Herberg indicated there are obstructions in the flow area that were not installed by the city so we should not be in this.

Member Simones asked if we issued building permits then are we somewhat responsible? Mayor Herberg stated that no permits were issued and explained what landscaping has been done since then. We have an obligation to the rest of the taxpayers. We told people on Burg Street that we will not be fixing their street.

***Motion by Mayor Herberg, second by Member Simones, to schedule a closed meeting on 7/13/06 for attorney/client discussion to resolve this matter.***

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

***Motion passed on a 6 to 0 vote.***

**MAINTENANCE DEPARTMENT** - Public Works Director Greg Stang reported on the following: GRAVEL HAULING – 4 bids were received for hauling approximately 1665 yards of gravel. \$6500 is in the budget. The following bids were received:

Kraemer Trucking & Excavating	\$3.50/yard
John Herberg Construction	3.90/yard
Krippner Trucking	4.50/yard
Steve's Excavating	5.85/yard

The Street Committee recommended loading by the yard. Greg is to confirm that there is no charge for loading into our trucks.

***Motion by Member Hagen, second by Member Simon, to approve the low bid of Kraemer Trucking & Excavating at \$3.50 per yard using the city trucks full time.***

***AYES: Ahles, Hagen, Karls, Simon, & Simones***

***ABSTAINING: Herberg***

***Motion passed on a 5 to 0 vote.***

**CLEAN UP OF MAINTENANCE OFFICE** - Greg Stang reported that he got some paint for free and Sentence To Service is washing walls and painting the inside for their shop and office.

**MAYOR'S REPORT** - Mayor Herberg reported that he received a call the other night stating that someone is vandalizing the Rock Fest signs. Mayor Herberg urged all to keep a watch on this.

**MORATORIUM ON SHORELAND** – Rena Weber reported that the city has adopted the Stearns County Shoreland Ordinance by reference and asked if there really is a need to keep the moratorium on.

***Motion by Mayor Herberg, second by Member Ahles, to lift the moratorium on Shoreland Development effective immediately.***

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

***Motion passed on a 6 to 0 vote.***

**OPEN FORUM** – No person appeared before the council.

**ADJOURNMENT** – ***Motion by Member Ahles, second by Member Simones to adjourn the meeting at 9:14 p.m. Motion carried unanimously.***

---

**VERENA M. WEBER-CMC  
ADMINISTRATOR/CLERK**

---

**BRIAN HERBERG  
MAYOR**

(This page left blank intentionally)