

**MINUTES OF A SPECIAL CITY COUNCIL MEETING HELD WEDNESDAY,  
FEBRUARY 1, 2006 – 6:00 P.M. – JOHN CLARK ELEMENTARY MEDIA CENTER**

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. Absent: Lloyd Lommel. Greg Simones arrived at: 7:00 p.m.

**INTERVIEW ATTORNEYS:** Mayor Herberg announced that interviews would now be held to interview attorneys. Present for the interview was Frank Kundrat from Kundrat Law firm.

Mr. Kundrat informed the Council that he works for the City of Clearwater and Clear Lake, a variety of townships, and has worked extensively with land use. Regarding land use he has worked with St. Cloud Township and the City of St. Cloud growth areas. He has also worked with public employees and private employees.

Rena Weber reported that Mark McKeon – Willenbring, Lickteig, Dahl, Wocken & Zimmermann had declined to interview for general attorney due to the fact that they work for Cold Spring Granite Company. He would offer his services for criminal work.

Rena reported that bids were received for criminal attorneys:

Reichert, Wenner, Koch & Provinzino	\$100 per hour
Willenbring, Lickteig, Dahl, Wocken & Zimmermann	\$150 per hour
Stearns County Attorney	\$10,000/year – not to exceed

The Administrator was asked to check into how the fine money gets paid out.

***Motion by Mayor Herberg, second by Member Simon, to contract for criminal attorney services for 2006 & 2007 through Stearns County Attorney as proposed.***

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, & Simon***

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

**GENERAL ATTORNEY** – Discussion was held regarding the pros and cons of each of the firms. Rena Weber cited the hourly rates.

Kundrat Law Office	\$115 - \$140
Rinke – Noonan Attorneys at Law	\$100 – 2 years experience
	\$125 – 3 to 6 years experience
	\$150 – 7 + years experience

Mayor Herberg announced that the council would now recess to the regular meeting at 7:00 p.m. Member Greg Simones arrived.

Staff Members present were: Administrator/Clerk Rena Weber, Fire Chief Randy Dingmann, Engineer Scott Hedlund, and Attorney Jim Mogen.

Planning Commission members present were: Jerry Bechtold, Jerry Tippelt, and Linda Peck.

Others present were: Dave Volkmuth, Tудie Hermanutz, Harold Rosenow, Duane Willenbring, Brian Hatten, Gwen Ballinger, Steve Anderson, Kathleen Stanger, Bruce Conrad, Norm & Rosemary Meyer, Pat Sell, Kim Klein, Scott & Susan Palmer, Bob White, Ron & Laurel Geiselhart, LuAnn Reif, & Susan Dean.

***ATTORNEY SELECTION – Motion by Mayor Herberg, second by Member Karls, to place discussion of attorney selection under old business.***

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones***

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

**CONSENT AGENDA** – Member Simon questioned CK # 007669 to Quality Flow and inquired if this was under warranty. Mayor Herberg indicated that Maintenance needs to verify before they pull a pump out as to why they are pulling it out.

***Motion by Member Simon, second by Mayor Herberg, to pull CK #007669 from the list of bills.***

**AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones****Motion passed on a 6 to 0 vote.**

Member Hagen questioned the minutes in regards to the request for sale of land and wanted to know what are we going to do with it? No action was taken and it was determined that this will be discussed under Old Business.

**Motion by Member Hagen, second by Member Simones, to approve the consent agenda as presented with the deletion of CK #007669**

- a) **Approve minutes of 01/18/06**
- b) **Approve Treasurer's Report of 02/01/06**
- c) **Approve List of Bills and Additions of 02/01/06**  

<b>Accounts Payable CK #007632 to 007673</b>	<b>\$150,166.38</b>
<b>Payroll CK #002269 to #002303</b>	<b>39,450.62</b>
- d) **Approve Fire Department Gambling License 3/31/06**

**AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones****Motion passed on a 6 to 0 vote.****BOARD/STAFF REPORTS**

**FIRE DEPARTMENT** – Fire Chief Randy Dingmann reported on the following:

**REQUEST TO TRANSFER FUNDS** – Chief Dingmann requested Council approval to transfer \$1769 from designated operating fund to cover the difference in the municipal contribution.

**Motion by Member Hagen, second by Member Ahles, to approve the request to transfer \$1769 to the municipal contribution fund and further to pay with designated funds as presented.**

**AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones****Motion passed on a 6 to 0 vote.**

**MAINTENANCE DEPARTMENT** – There was nothing to report.

**PLANNING COMMISSION** – Planning Commission Chair Jerry Bechtold reported on the following

**COUNTRY SIDE ADDITION PLAT 7** – Jerry Bechtold reported that the Planning Commission considered the request of Duane Willenbring to re-plat two lots in Country Side Addition Plat 6. Attorney Jim Mogen addressed the issue, stating it is considered a new plat and is subject to the present ordinance. With the Attorney letter and engineer letter listing his concerns the Planning Commission denied the request. The lots are substandard and could not meet the conditions of the ordinance. Discussion was held regarding the setback from roadway and that this may need a variance in order to stay 10' away from the wetlands.

Member Hagen voiced concern that at the time this was granted it was okay, however it is good that we are staying away from the wetland. The fact that things have changed since it was platted may give Mr. Willenbring some right to build under a variance due to no fault of his own.

Duane Willenbring was present and stated that in the essence of time he would like to meet with the City Administrator and two attorneys to discuss the issue. Mr. Willenbring would like the council to table action on the request.

Member Hagen motioned to approve the plat stating the city should recognize that this was a lot of record at the time it was platted.

Attorney Jim Mogen strongly recommended not taking action proactively without a proper application. Member Hagen retracted his motion.

It was determined that Duane Willenbring would need to place an application before the city for consideration and further that the City Administrator is to meet with the City attorney and Mr. Willenbring's attorney to discuss this issue.

**Motion by Member Ahles, second by Member Simon, to table action on said request until further information is available.**

**AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones****Motion passed on a 6 to 0 vote.**

CHAIR REPORT – Jerry Bechtold reported that he presented a year end report to the Planning Commission regarding the following:

1. Don Dietman Industrial Property – Development grant of \$229,143 was received, it must be encumbered by August – 2007 or be returned to the State of Minnesota.
2. Molitor Brother's 40 acre tract adjacent to Dietman property is under consideration for development.
3. Stearns County Highway 82 (Broadway Street) is scheduled for improvement from Pine Street to County Road 8 – this summer. County Road 8 to Country Road 140 will receive new tarvia only. Turn lanes/exit lanes should be provided.
4. Concept plan for Clarence Bloch/Dennis Backes property as reported out of sub-committee – map is on file in the office of the Administrator/Clerk.
5. Shoreland Management Standards – (6120 Rules have been in place since 1989) – Some Stearns County sections are more restrictive than 6120. Stearns Shoreland Overlay – same MN alternative Shoreland Management Standards is a committee report in progress, there will be public hearings state wide.
6. A committee is needed to bring some ideas for expansion and uses in the Ag Transitional Zone. Should there be (2) Ag Transitional zones (decided by geophysical land character)?
7. Prairie Industrial Park – by C.U.P. or should commercial uses be allowed in the industrial park? The Planning Commission has discussed allowing commercial uses in the industrial park by Conditional Use Permit and they are serious about making those recommendations.

Jerry Bechtold reported that he is on a board where he attends city council meetings in the area and reminded the Council that Maintenance needs to have OSHA rules posted and comply with them.

**ROCK FEST** – Kathleen Stanger was present at the meeting to report the event is scheduled for July 7, 8 & 9, 2006. They are looking for volunteers and businesses that are looking to promote their business are welcomed to sponsor an event. They have met with the Fire Department who are excited about the event and will sponsor a food stand and gambling. Next meeting will be held 2/22/06 – upstairs city hall.

#### **OLD BUSINESS**

REQUEST FOR LAND – Regarding the request for land from Jeff Lahr Mayor Herberg suggested the City make a proposal to sell it for what we paid for it at approximately \$1.00 per square foot.

Member Karls asked if we are ever going to need it. It was determined that it is a maintenance issue and would not be needed.

***Motion by Member Hagen, second by Member Simones, to instruct the Administrator/Clerk to send a letter to Jeff Lahr and offer to convey the land for what the city paid for the land.***

Member Hagen further suggested that we offer a 10% return on a lease and keep it.

Scott Hedlund is to review the property to see that we have the proper easements maintained to see that they continue through the property.

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones  
Motion passed on a 6 to 0 vote.***

#### **PUBLIC HEARINGS**

**ORDINANCE 2006-28** – Mayor Herberg announced that a public hearing would now be held to consider adoption of proposed Ordinance No. 2006-28 establishing a moratorium on the development, subdivision, and use of certain land within the City of Rockville. This ordinance was drafted due to a petition received from a number of citizens relating to building in the Shoreland District.

Robert White - 10583 Mitchell Lane, thanked the Council for their continued effort and submitted a written letter which is hereby attached and made part of the minutes as Exhibit A.

Scott Palmer – 21108 Fowler Road, stated that he is the President of the Grand Lake Association and on their behalf thanked Jerry Bechtold for his efforts. Scott Palmer asked the council to approve this ordinance by a unanimous vote and to preserve the water clarity that they worked so hard to increase. Mr. Palmer voiced concern that the Comp plan does not define low density and further asked that the city find what is meant by low density housing and also define buffer zones.

Jerry Bechtold – reported that the Planning Commission by unanimous vote recommended the Council adopt the ordinance.

Dave Volkmuth – 25754 Lake Road, stated he was impressed with what they are doing around the surrounding lakes by taking charge. Mr. Volkmuth reported that at a recent Pleasant Lake Association meeting Sheriff Sanner gave his overall view and that it was a positive meeting. Mr. Volkmuth indicated the moratorium will slow growth down so they can study these things

Duane Willenbring – 25123 County Road 139, questioned the definition of Shoreland Overlay and does this definition include rivers and lakes as it could be far reaching? It was reported that 300' from rivers are included in the moratorium.

***Motion by Member Ahles, second by Member Simones, to close the public hearing at 7:54 p.m.***

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones  
Motion passed on a 6 to 0 vote.***

***Member Hagen introduced the following Ordinance and moved for its adoption:  
ORDINANCE NO. 2006-28***

***AN INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON THE  
DEVELOPMENT, SUBDIVISION, AND USE OF CERTAIN LAND WITHIN THE CITY OF  
ROCKVILLE.***

***(A complete copy of the Ordinance is hereby attached and marked Exhibit B).***

***The motion was duly seconded by Member Ahles with the following vote being***

***taken:***

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones  
Motion passed on a 6 to 0 vote.***

**ORDINANCE NO. 2006-29** – Mayor Herberg announced that a public hearing would now be held to consider adoption of Ordinance No. 2006-29 establishing a moratorium on the construction of signage structures within the City of Rockville.

Steve Anderson – Franklin Outdoor Advertising, Clearwater, MN stated they currently own and operate a sign business. Mr. Anderson is not for or against the ordinance; however, he would like to take part in the adoption of the ordinance. There are lawsuits going on where people are putting in signs where they are not wanted.

Bruce Conrad – 11381 Hubert Lane – stated he is the President of the Rockville Business Association and wanted to know if there is there any way George Bechtold could put up a sign tomorrow without getting a variance. Mr. Bechtold could if he obtains the permit before the ordinance is published.

***Motion by Member Simones, second by Mayor Herberg, to close the public hearing at 8:04 p.m.***

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones  
Motion passed on a 6 to 0 vote.***

***Member Simones introduced the following Ordinance and moved for its adoption:  
ORDINANCE NO. 2006-29***

***AN INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON THE  
CONSTRUCTION OF SIGNAGE STRUCTURE WITHIN THE CITY OF ROCKVILLE  
(A copy of the complete Ordinance is hereby attached and marked Exhibit C).***

***The motion was duly seconded by Member Ahles with the following vote being***

***taken:***

More discussion was held regarding what effect the ordinance has and Jim Mogen stated if a sign request would require a permit under the current ordinance then it would be considered a major change and therefore comes under the moratorium. With the 1<sup>st</sup> amendment we are at risk of ruining the whole moratorium if we exclude any business.

Jim Mogen stated there is a movement in many states where less than scrupulous sign companies have come into cities that do not have up to date ordinances. Without any ordinance on the books a city is hand strung from blocking big billboards from being built there.

Mayor Herberg indicated that we need to be sensitive to the business.

Member Hagen stated he would not recommend to the council to make any changes.

Jim Mogen suggested the Council adopt a policy to waive the variance cost and control through the variance level.

**ZONING ORDINANCE CHANGES** - Jerry Bechtold reported that the Planning Commission is reviewing changes in the ordinance and will present it for adoption.

Linda Peck stated that as a Planning Commission member she feels that we are close with a recommended change and the moratorium should be short lived.

Rena Weber reported that a public hearing on the proposed 85 page amendment will be held on 2/22/06 – 7:00 p.m. (which is a special meeting of the City Council).

Mayor Herberg stated that he is reluctant to adopt a moratorium since we are close to adopting a new sign ordinance and questioned why we are doing this.

Member Simones stated there is going to be a moratorium in place for up to one year.

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

**NAYS: Simon & Herberg**

**Motion passed on a 4 to 2 vote.**

#### **OLD BUSINESS**

**ATTORNEY APPOINTMENT** – Mayor Herberg reported that the Council previously approved Stearns County Attorney for criminal services for 2006 & 2007 at \$10,000 per year.

Member Simones asked if Frank Kundrat had experience with developer's agreements. It was reported that he does and he also has experience with lake shore.

Member Hagen stated that Frank Kundrat would draft a short memo instead of attending a meeting.

Member Hagen stated he was not happy that we did not get a better response and suggested we solicit more attorneys to get more input.

Mayor Herberg stated that Frank Kundrat was open to a flat rate for meetings and the Administrator was asked to see if Rinke Noonan would do the same.

**Motion by Member Hagen, second by Mayor Herberg, to instruct the Administrator to get more attorneys to interview.**

**AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Simon & Simones**

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

**ENGINEER REPORT** – Scott Hedlund reported that he had nothing to report.

**MAYOR REPORT** – Mayor Herberg reported on the following:

**MN ICE** – Mayor Herberg reported that he went to Sauk Rapids last week to attend a meeting regarding meth and it's affects. This is a big issue and it's everywhere. It impacts you. Last year Stearns County spent 1.5 million dollars fighting meth. People need to get involved as it is costing everybody. Mayor Herberg brought back information regarding signs of meth labs and the do's and don'ts of loving meth addicts.

**5<sup>th</sup> MONDAY MEETING** – Mayor Herberg reported that discussion was held regarding the school district issue in failed levies.

Member Ahles indicated that Northern Rail Lines is looking for land to bring business to the community.

**PERSONNEL COMMITTEE** – Member Simones reported that the Personnel Committee met last Thursday to discuss part-time office help and reviewed the job description and established a Level 4 point value of 112 to 123 with a pay range of \$9.56 to \$13.38. The Personnel Committee thinks it is necessary to hire out at this time.

***Motion by Member Simon, second by Member Ahles, to approve the point value range and to advertise for the position.***

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

***NAYS: Hagen***

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

**ADMINISTRATOR REPORT** – There was nothing to report.

#### **OPEN FORUM**

Dave Volkmuth - 25754 Lake Road, stated that he is aware of meth labs and that meth is completely different from other drugs. The sheriff can explain meth problems. In regards to snow plowing it used to be done where all of the snow went on the opposite side of their driveways on Lake Road and he asked for the same consideration.

Linda Peck – Planning Commission Member asked for the following:

- 1) 2/2/06 - 6:00 Trails Task force Meeting – They will be reviewing and collecting comments on the draft plan for Eagle Park. She needs comments by tomorrow night that will be included in the draft plan.
- 2) Is there a possibility that the Trails Task Force will have an opportunity to be on the agenda or do they have to go through the Park & Rec Board? Yes, they can be on the agenda.
- 3) There is a lot of talk about the cost of the city attorney/engineer, but you don't really ask them a question when they are here.

Linda Peck also stated the council acts as if the Planning Commission does not exist when half of what we say does not get approved.

Duane Willenbring – 25123 County Road 139, stated that legal counsel is giving you an opinion on the sign moratorium and Rockville is the laughing stock because of the moratorium. In regards to the City being in a temporary mode of being under staffed he suggested the council look at temporary outsource help. You can find somebody at \$9.56 per hour. Rinke Noonan is also his counsel and he indicated why most attorneys don't want to have representation of a city council is because it takes away from their family time. He recommended the use of e-mails.

Bruce Conrad – Rockville Business Association indicated the Association sponsors a golf outing where they raise their own funds for the Rocori Scholarship fund. They are working with George Bechtold on putting up a big sign by the railroad track that they will sell spots for.

Bruce Conrad also thinks the council did the right thing by placing the moratorium on signs as Franklin Sign was here for a reason.

Duane Willenbring stated that he does not agree with Bruce Conrad. Legal counsel did not review the proposed ordinance and he was asking for a moratorium.

Jerry Bechtold indicated that he does not agree with Duane Willenbring and Jerry feels that he is demeaning the Planning Commission. Jerry Bechtold stated that Duane was misguided and the attorney has reviewed the old ordinance. He has not reviewed the new proposed ordinance.

Tudie Hermanutz – 211 1<sup>st</sup> St W – stated that she wants all people to go to the meetings on meth. The session attended by the Mayor was a real good session. It made them more aware and we don't realize how serious this is.

Scott Palmer – stated that the moratorium does not really address how we define low housing density. Member Simones noted that density usually refers to single family housing not apartments.

Jerry Tippelt – stated that he was still wondering about his address.

Don Simon – stated that we have a sign issue. He thought MNDOT was going to put up signs saying “Rockville - next four exits”.

Bruce Conrad stated they will put them up at a cost of \$200. Bruce Conrad stated that he is still working on Welcome to Rockville signs which could be placed at Glen Cove Road (to the west), and St. Joseph Twp.(to the East).

***ADJOURNMENT – Motion by Member Ahles, second by Member Simones, to adjourn the meeting at 9:22 p.m. Motion carried unanimously.***

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

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**BRIAN HERBERG  
MAYOR**

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