

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, MAY 7, 2008 - 6:00 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 Brian Herberg, Council Members Vern Ahles, Susan Palmer, Jim Pflapsen, Don Simon & Randy Volkmuth. Absent: None.

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

Others present were: Tудie Hermanutz, Duane Willenbring, Bob Kroll, Vern Salzl, Dave Volkmuth, Ev Balko, Scott Mareck, Elmer Haus, Jerry Schmitt, Bonnie Ring, Aaron Cheeley & George Bechtold.

ADDITIONS TO THE AGENDA: Motion by Member Volkmuth, second by Member Ahles, to approve the addition to the agenda for discussion purposes.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

CONSENT AGENDA: Motion by Member Volkmuth, second by Member Palmer, to approve the consent agenda as presented:

a) **Approve minutes of 04/16/08 & 4/30/08 (2 Sets each day)**

b) **Approve Treasurer's Report of 05/07/08**

c) **Approve List of Bills and Additions of 05/07/08**

Accounts Payable CK #010119 to #010194 \$50,884.73

Payroll CK #003062 to # 003069 5,801.85

EFT #000137 397.96

d) **Requests for council action-Budget amendments & Transfer**

e) **Liquor License renewals**

	ON-SALE	OFF-SALE	SUNDAY
The Bayou	X	X	X
Stoney's Bar	X	X	
B'S Liquor of Rockville		X	
400 Supper Club	X	X	X

f) **Liability Coverage – Waiver form \$300,000**

g) **On-sale Malt Liquor License – Rockville Park & Recreation Board**

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

BOARD/STAFF REPORTS

MAINTENANCE DEPARTMENT – Rick Hansen reported on the following Request For Action – Approve Quality Flow Systems estimate of \$2300 rewire the main lift station control panel due to a change in the design from when the original sewer project was done.

Motion by Member Volkmuth, second by Member Simon, to approve the request as presented.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

Request For Action – Approve purchase of approximately 1500 cubic yards of Class 5 from Dan Hansen for graveling roads. The price is \$3.75 per cubic yard. Dan Hansen has lowered the price from last year. Rick intends to gravel Rausch Lake Road, Halfman Road, and 80th Avenue.

Motion by Member Simon, second by Member Palmer, to approve the bid of Dan Hansen to purchase approximately 1500 cubic yards of gravel for 2008 graveling projects.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

Request For Action – Rick reported that he obtained the following bids for hauling and spreading approximately 1500 cubic yards of Class 5. Six requests were sent out.

Kraemer Trucking & Excavating Inc.

\$3.60 per yard

\$1.65 per yard for loading City Trucks

Steve's Excavating Inc.

\$4.80 per yard

No additional charge to load City trucks

Gene Lange & Sons Excavating Inc.

\$2.95 per yard

No additional charge to load City trucks

Recommend Gene Lange & Sons

Fund # E 101-43100-328 (There is \$8300.00 in the budget)

Motion by Member Volkmuth, second by Member Ahles, to approve the bid of Gene Lange & Sons at \$2.95 per yard to haul and spread the Class 5.

AYES: Ahles, Herberg, Palmer, Pflepsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

OLD BUSINESS

STONECRAFTER'S BUSINESS SUBSIDY – Attorney Jim Mogen reported the council had approved the transfer of 1 acre of JOBZ from Melrose on March 5, 2008. The Business Subsidy Agreement has been signed by the Vern Salzl and still needs to be approved by the council.

Member Volkmuth introduced the following Resolution and moved for its adoption:

RESOLUTION NO. 2008-11

RESOLUTION APPROVING

JOBZ BUSINESS SUBSIDY TO STONECRAFTERS

WHEREAS, the City proposes to enter into agreement with Stonecrafters, Inc. to provide JOBZ benefits for a 9,000 sq. ft. expansion of their facilities in Rockville, and

WHEREAS, the City prepared and filed a summary of the proposed Business Subsidy in the Administrator's office at City Hall which is available for inspection by the public; and has held a public hearing on a proposed JOBZ business subsidy to Stonecrafters, Inc., in accordance with the requirements of Minnesota Statutes 116J.993 through 116J.995; and

WHEREAS, a final Subsidy Agreement for the project has been completed and is ready for Council approval.

BE IT RESOLVED by the City Council (the "Council") of the City of Rockville, Minnesota (the "City"), as follows:

1. The Business Subsidy agreement with Stonecrafters is hereby approved.

2. The City Administrator serving as the JOBZ SubZone Administrator is authorized and directed to sign the agreement on behalf of the City.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Palmer and upon vote being taken thereon, the following voted in favor: Mayor Herberg, Council Members: Ahles, Palmer, Pflepsen, Simon & Volkmuth and the following voted against the same: None Whereupon said resolution was declared duly passed and adopted.

SPECIAL ASSESSMENT POLICY – Attorney Jim Mogen reported that he is working on the revised special assessment policy per the recommendations of the committee. Changes made:

- Deleted #15 in its entirety as that was agreed upon by the joint group
- Schedule of costs kept the last sentence
- 7C was clarified to reflect how any proceeds of the project is applied
- Section 10 C D E – all city streets were clarified in this section
- A redlined copy from Jim Mogen is forthcoming and staff will copy the council & committee

- Schedule for adoption at 5/21/08 meeting

DETACHMENT PETITION – Attorney Jim Mogen reported that he needed council direction regarding the detachment proceedings. He was contacted by the OAH as to whether the council wished to go to mediation. (*Refer to RFA hereby attached and marked Exhibit A*).

Basically the City has four options:

1. Refuse formal mediation, delay preparing for the contested hearing and seek informal resolution with the Petitioners.
2. Refuse formal mediation, authorize proceedings related to contested hearing and seek resolution with Petitioner, prior to hearing.
3. Elect formal mediation and authorize preparation for mediation.
4. Elect forma mediation and proceed to mediation without assistance from Legal.

Member Pflapsen indicated that if we are not sure which way we want to go he would rather go to mediation and avoid an expensive legal expense.

Mayor Herberg agreed with Member Pflapsen, however, there have been three meetings already, there was no give and take, and indicated that he preferred Option #2.

Member Palmer asked if the council needs to develop a council position. Mayor Herberg indicated we elected not to do that. Member Palmer stated that we need to talk about it and decide where we are headed. Member Palmer was further concerned on whether it is in a hearing or mediation that the council should take a position.

Member Pflapsen stated that a closed meeting the council was held with the intent not to compromise any information that may be part of a lawsuit. In that meeting, costs were discussed and those costs should be considered. This body needs to discuss those costs so the public understands and avoid mediation.

Member Volkmoth asked if those costs can be made public. Jim Mogen indicated that that information can be opened to the public, but is able to be private and used for strategy.

Member Pflapsen indicated that going through the mediation process the council would get a good indication if we will win the fight without incurring a lot of money for the discovery process. He is not willing to overlook the mediation process first.

Member Palmer felt that the council would not get an indication of what will be approved during mediation. They are there to provide a process.

Member Pflapsen disagreed.

Attorney Mogen reported the mediator will not provide advice. There are benefits to going to mediation; the council will get a better idea as to the strength of the position. Discussion will be limited; people will be in separate rooms. It gets the process moving now rather than letting everything sit. There are costs to every step.

Mayor Herberg feels this is an all or nothing deal. No matter which way we go it will cost us some money.

Member Pflapsen feels the petitioners have a very strong case and it is not a cheap date.

Member Volkmoth felt that his worry is that in mediation at least we can negotiate. He is not sure we know where we stand with an ALJ, and we stand to lose. He does not want to spend \$50,000 to find that out.

Member Pflapsen indicated that is a key point. We could come up with nothing. With mediation we would be meeting with a group of people who are willing at this time.

Mayor Herberg indicated that we are in the driver seat as less than 5 years ago the Legislators and ALJ approved the consolidation. There is more say in the city Vs the township.

Member Volkmoth indicated that there is no precedent and we need to be careful of the cost.

Member Palmer stated that she agrees with that, but we also have to look at this in a longer term. If it goes we are losing the taxes forever, and we are going to incur costs this year. It is not just a one year deal and we have to weigh that as well. The taxes for the remaining people in the city will go up.

Member Pflapsen argued that the quick study shows that it is a very close deal financially and taxes may go down. The City said at public meetings that we don't plan to take care of roads out there and would argue that 6% of the revenue or \$30.00 per year per %150,000 household is enough to be considered.

Member Palmer disagreed with Member Pflapsen.

Mayor Herberg stated that he agrees with Member Palmer.

Member Pflapsen stated that is why he supports mediation as we will find out early where we stand.

Member Palmer asked Jim Mogen if we go to mediation can we still walk away without a resolution. We might have a better understanding.

Jim Mogen stated the city does not have a middle ground to mediate by. Mediation will be held in the next 60 days, the mediator will not meet unless they are assured the city representative has authority to resolve the issue.

Member Volkmuth stated that some of the costs incurred by mediation could be applied to trial and by going to mediation it forces them to come up with some money

Motion by Member Palmer, second by Mayor Herberg, to select Option #2 Refuse formal mediation, authorize proceedings related to contested hearing and seek resolution with Petitioner, prior to hearing.

AYES: Ahles, Palmer, Simon, Herberg

NAYS: Pflapsen & Volkmuth

Motion passed on a 4 to 2 vote.

Jim Mogen asked if the council would like to establish a committee to negotiate. It was determined that all members would be a part of the process.

SCOTT MARECK – APO PRESENTATION

Scott Mareck, Executive Director was present along with Mayor Bob Kroll to inform people about the APO. Mr. Mareck reported on:

- History of the APO and how Rockville became involved
- Make up of board members
- Projects they are involved in
- 9 corridor studies going on right now
- Federal lobbyist hired to leverage earmarks is \$36,000 per year – Rockville can participate in the cost at \$500/yr.
- In 2009 8th St and Pine Cone Road is a project earmark
- High priority project funding – SAFETEA LU
- Costs to city are \$1.01 per capita for membership which is 2632 = \$2,658. The APO would waive ½ the due for this year \$1329.
- Steps to join – read the by-laws and sign the joint powers agreement
- NEXT meeting is 5/22/08 or the 4th Thursday, Executive Committee meets on the 2nd Thursday of each month
- Mayor Herberg is the 1st representative plus 2 council members serve on policy board.

Member Pflapsen stated that he is familiar with APO. There are a lot of funded and unfunded projects. We need to go forward 20 years. What direct benefit would we get? Scott Mareck suggested the council exercise caution in expecting Federal money right away, but the APO also does traffic studies, plat review, and GIS services. This is free or part of the fee. There are 6 staff members. The Executive Board prepares the work program and the city would have a say in how the program is developed.

Mayor Bob Kroll indicated that St. Augusta has been a member for 20 years. St. Augusta itself did not get much for them and it takes a while before you see the benefits.

Member Palmer indicated that it would be good for council to talk about long range planning for the city. We are busy with dealing with day to day issues. We need to go back to the consolidation plan. We need a strategic planning session and determine do we want to be a participant?

BOARD/STAFF REPORTS

ROCK FEST –

FIREWORKS CONTRACT – Rena Weber presented copies of the annual contract for the fireworks stating that the cost is now \$3500. Rock Fest will pick up the increase of \$500 which leaves \$3000 for the city.

Motion by Member Volkmuth, second by Member Simon, to approve the contract with RES Specialty Pyrotechnics in the amount of \$3500. as discussed.

AYES: Ahles, Herberg, Palmer, Pfllepsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

PARK & RECREATION – Member Palmer reported there is a request to use \$187.26 from designated funds for Eagle Park to purchase Geo Fabric for continuation of Eagle Park Trail. (Brock White)

E 202-45122-511 Project code 200402

Also, to use \$372.88 from designated funds for Eagle Park to purchase wood and misc. supplies for a bridge to cross over a wet area of the Eagle Park trail. (Theisen Building Supplies).

E 202-45122-511 Project code 200402

Balance as of 4/30/08 = \$17,289.40

Motion by Member Pfllepsen, second by Member Palmer, to approve the requests for designated fund transfers as presented.

AYES: Ahles, Herberg, Palmer, Pfllepsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

COUNCIL MEMBER HAGEN REPLACEMENT – Mayor Herberg announced that discussion would now be held regarding Council member Jeff Hagen's replacement. Four people have applied for the position: Bill Becker, Toni Honer, John Koerber & Bonnie Ring.

Rena Weber reported that the City of Richmond nominated their person to be interviewed by the whole council.

Mayor Herberg reported that the list of people wishing to address the council at the Board of Review meeting is getting quite long and asked for council input on changing that date for the interview portion.

Member Pfllepsen stated that he knows all four applicants. Toni Honer would fill the position, but it will be difficult to fill her seat on the Planning Commission. He knows that Bonnie Ring and John Koerber were both on the council. He knows Bill Becker the least, but is impressed with his resume. He handles a \$1.3 million budget, oversees 39 employees, and brings outside expertise.

Member Volkmuth indicated that all four applicants are able to take the position. He agrees in not taking Toni Honer off the Planning Commission, likes the experience of John Koerber and Bonnie Ring. He agrees with Member Pfllepsen about Bill Becker, but supports John Koerber.

Member Ahles stated that all are good candidates, but he would have to support Bill Becker based on his experience.

Member Simon stated that all of the applicants are good people. Bill Becker was a candidate at last election; he would bring an outside view and he leans towards Bill Becker.

Member Palmer stated she thought that we were going to interview applicants. Toni Honer is educated on Planning Commission issues; John Koerber is experienced in government; and Bill Becker has experience. Bonnie Ring is experience as well and she served on the Special Assessment Policy so she is interested in being involved.

Motion by Member Pfllepsen, second by Member Ahles, to appoint Bill Becker to fill the council position vacated by Jeff Hagen effective 5/9/08.

Mayor Herberg stated that he was overwhelmed at all four candidates and the process of elimination. He values what Toni Honer is doing on the Planning Commission and thinks she could do both. John Koerber has been in this many years and he was involved in the consolidation. He likes what Bill Becker could bring with a new voice and Bonnie Ring would bring some insight.

AYES: Ahles, Herberg, Palmer, Pfllepsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

ENGINEER REPORT – Scott Hedlund had nothing to report.

Member Pflapsen asked Scott Hedlund if there will there be participation from SEH for the detachment issue or is it a part of the contract cost? Scott Hedlund indicated it would be on an hourly basis. He does not have experience with discovery costs, but does have experience with the legal process. Scott indicated that he can't imagine it would be significant.

ADDITIONS TO THE AGENDA

COUNTY ROAD 82 UPDATE – Rena Weber gave an update the County Road 82 project. A resident had voiced concern about having sod placed next to the trail so in conferring with Mayor Herberg they are looking into a cost estimate on pervious pavers. The estimate was not available for this meeting, but there still is some time.

Mayor Herberg reported that he has received a lot of complaints regarding the width of the street. The 8' parking lane on north side of street will become 10' so the center of road will move 2' and the end 12' parking on south side will become 10'.

COMMITTEE REPORTS –

MAYOR'S REPORT – Mayor Herberg reported on the following:

WORKING SESSION - Mayor Herberg reported that he is scheduling another working session with all departments. He would like to discuss membership in the APO too. The meeting should last between 1- 2 hours.

EAGLE PARK TRAIL – Mayor Herberg reported that last Saturday 18 people helped to finish the trail.

FINANCE COMMITTEE – Member Palmer reported the Finance Committee met last week to begin budgeting and to work on a CIP that goes out many years.

Designated Funds – There was a request to transfer all street department designated funds into Fund 215. The consensus was to leave the Street Department Designated Funds where they were at.

Drainage Issue – The Finance Committee reviewed the drainage issue at the 400 Club and recommends the city take the \$20,000 from Fund 215

Motion by Mayor Herberg, second by Member Ahles, to approve paying for the repair of drainage system on Lake Road from Fund 215 – Road Maintenance Fund.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

David Drown Invoice – Chair Palmer reported the Committee reviewed the invoice for services from David Drown. Mr. Drown responded to the city's request to reduce the bill and provided a very in depth response on the time spent for the City of Rockville. David Drown reduced the bill to \$5,935.27.

The total bill presented was \$6,985.22 (which was then reduced to \$5,935.27) of which \$2,625 is water related and \$3,310.22 is sewer related.

Recommendation to amend the 2008 budget to cover the costs of this bill as follows:

Water Fund E 601-49440-540 (Machinery/Equipment) -\$1,313 +E601-49440-310 (Professional Services)

E 601-49440-591 (Wtr Twr Maint, etc). - \$1,312 +E601-49440-310 (Professional Services)

Sewer Fund E 602-49490-540 (Machinery/Equipment) -\$3310 +E602-49490-310 (Professional Services)

Motion by Member Volkmuth, second by Mayor Herberg, to approve the budget amendment as presented.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

Member Pflapsen stated he would like to see staff do more especially in regards to the water rate study. Rena Weber reported that that is how it was done in the past and will be done this way going forward.

STREET COMMITTEE – Chair Simon reported on the following –

MINNERATH/KRAEMER REQUEST TO DELETE SEWER HOOK UP – Chair Simon explained that Loren Minnerath wants to buy Mrs. Kraemer's house and wants to know if the city will allow him to purchase it and not hook up to city sewer. He plans to rent the house out and sometime later make a decision on doing something with his property such as splitting the top half from the bottom half. This is his last chance to expand.

The Street Committee felt that if he keeps the house as is, a sewer lift station would have to be installed. City water is hooked up, but no WAC charge has ever been paid.

Mayor Herberg reported that the city abandoned their well when water was being installed so it was either put in a new well or let them hook up. Mayor Herberg reported that Loren Minnerath would purchase the property for future expansion, rent the house and if sewer comes along CR 82 he could hook up to it with gravity feed. If a business goes in on top of the hill they would probably not be positioned to hook up.

Member Volkmuth suggested that the city charge the SAC WAC now so they would not have to pay for it when they do hook up.

Mayor Herberg stated that he would not be in favor of a SAC charge and he would approve upgrading the septic.

Member Pflapsen asked if the committee discussed a time limit. He can understand why the request is being made. What if Mr. Minnerath holds the house for rental for 5 to 10 years? Member Pflapsen feels the council should put in a time frame.

Motion by Member Volkmuth, second by Mayor Herberg, to approve the request to hold off on the requirement to hook up to city sewer until:

- a) If water/sewer comes up County Road 82 or***
- b) If the use changes from anything but residential***
- c) The agreement must be in writing***
- d) New owner will have to pay the current WAC charge***
- e) The city will terminate paying the Erken's Water bill upon the sale.***

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

400 CLUB DRAINAGE ISSUE – Chair Simon reported that John Koerber has agreed to grant the easement to change the drain system and financing of the \$20,000 has taken care of.

Member Volkmuth reported that John Koerber does not want to incur any costs.

CR 138 – Chair Simon reported there will be an informational meeting on 5/28/08.

Crane Pump – Attorney Jim Mogen has sent a letter to the company president.

260TH STREET – Rick Hansen has met with St. Joseph Township members regarding the 260th Street overlay. Rick Hansen reported they are leaning towards a reclaim with 3" top. Chair Simon will set up Street Committee meeting to review the estimated costs.

CHURCH WATER BILL – Chair Simon reported that since last December their use doubled. In the beginning of April Rick Hansen met with Ed Karls at the Church for a walk through to determine the cause. It was discovered that the bathrooms in the basement were leaking and were shut off. The Church has agreed to pay for the water they use, but would like to have their minimum sewer bill reduced.

Motion by Member Volkmuth, second by Member Palmer, to approve changing of the minimum sewer use based on the readings from this billing.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

SEAL COAT COMPLAINT – Chair Simon reported that Kim Klein had a complaint on seal coat project. This will be looked into.

ADMINISTRATOR'S REPORT

MMUA – Rena Weber reported that Rockville is part of a 9 city consortium that provides safety training. She just wanted to let the council know that our efforts in providing a safe workplace is paying off. Rockville hosted the area meeting on Thursday and a mock OSHA inspection was done as part of our dues. By the report you can see what we could have been fined for. Changes will be made on our part and should not be a big expense.

ASSESSMENT POLICY COSTS, DETACHMENT COSTS – Rena Weber reported the information is being provided for information purposes only.

OPEN FORUM

Dave Volkmuth – 25754 Lake Road – stated he is surprised that amount of money being spent and litigation of \$60,000 to \$80,000 to \$100,000. Mr. Volkmuth urged the Council to communicate and is highly against taking city tax payer's dollars. If they don't want to belong, why force them to stay, and cut back staff. The biggest concern was city hall and fire hall and that has been taken care of. Mr. Volkmuth urged the council to look at this again.

Duane Willenbring – 25123 CR 139 – was present to voice concern about John Clark Coop and the manhole built on the west end of the property. There is a ponding of water on south side of Chestnut Street. He would like to meet with the county to see that this is fixed. Mayor Herberg reported that a meeting was held already and this will be fixed. Jodi Teich told him if this does not work they will redo it.

Tudie Hermanutz – 211 1st St W – reported that she had a detachment thought. She is asking if the council have ever considered accepting this request. She urged them look at other side and let them do what they want to do. She is a great advocate of letting people petition.

Member Pflapsen indicated people in the affected area will take the offer to pay for the bond off the table.

Member Simon reported that he read a summary of county meetings regarding the Septic System Soil Inspection fee. He cited the proposed fees:

- \$75 – not passed
- No fee – nothing happened
- \$80 – not passed
- \$50 – not passed
- \$100 – passed

Vince Schaefer voted for it. Member Simon is disappointed in this action. It is ironic to us we are keeping our costs down and they are raising their fees.

ADJOURNMENT *Motion by Member Volkmuth, second by Member Pflapsen, to adjourn the meeting at 7:48 p.m. Motion carried unanimously.*

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

BRIAN HERBERG
MAYOR