

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,
OCTOBER 1, 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 Herberg, Council Members Vern Ahles, Bill Becker, Susan Palmer, Jim Pflapsen, Don Simon & Randy Volkmuth. Absent: None.

Staff members present were: Administrator/Clerk Rena Weber, Planning Commission Chair Toni Honer & Engineer Scott Hedlund.

Others present were: Aaron Cheeley, Amy Goerger, Tудie Hermanutz, Jerry Bechtold, Dick Nieters, Pat Sell, Sharon Sponheim, Duane Willenbring, Jerry Schmitt, Jeff Hagen, Dave Volkmuth, Darin Ennen, Gene Merten, Pat Sell, Ev Balko, Clarence Bloch & George Bechtold.

ANNOUNCEMENT FROM THE MAYOR – Mayor Herberg announced that the public hearing to consider an increase in wages for the Mayor and Council was re-scheduled to 10/15/08 due to a power outage at the Cold Spring Record.

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

AYES: Ahles, Becker, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 7 to 0 vote.

CONSENT AGENDA: Motion by Member Volkmuth, second by Member Palmer, to approve

- a) **Approve minutes of 9/17/08**
- b) **Approve Treasurer's report of 10/01/08**
- c) **Approve List of Bills and Additions of 10/01/08**

Accounts Payable CK #010616 to 010653	\$49,393.32
Payroll CK #003200 to 003206	4,694.02
EFT #000149 & 000150	1,125.41

AYES: Ahles, Becker, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 7 to 0 vote.

BOARD/STAFF REPORT

MAINTENANCE DEPARTMENT – The Maintenance Department had nothing to report.

OLD/NEW BUSINESS

ADMINISTRATIVE FINE – Mayor Herberg announced that discussion would now be held regarding an Administrative Fine to be charged for a tobacco compliance violation. Rena Weber reported that the attorney had provided a written memo stating that the city “shall” assess the fine and the owner may apply for a hearing within 20 days of receipt of the letter.

Motion by Member Volkmuth, second by Member Palmer, to assess a \$75.00 administrative fine to B's Liquor owner and a \$50.00 administrative fine for the employee involved in the incident as per state statute §461.12, Subdivision 2.

Member Pflapsen voiced concern that it still does not state that we still have to do it.

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

NAYS: Pflapsen

Motion passed on a 6 to 1 vote.

SUMMARY PUBLICATION OF ORDINANCE NO. 2008-50 & 51 – Rena Weber reported that the two ordinances approved at the 9/17/08 meeting actually did pass and the 6 votes is necessary to approve a summary printing of the ordinances. Rena Weber reported that she compiled a list of answers to questions that came up at the hearing along with Scott Hedlund's answers regarding the Storm Water Management Ordinance. This is for council reference.

Rena Weber also reviewed the memo written by Attorney Mogen (attached is a copy that is marked Exhibit A) in which Mr. Mogen had questions of the council.

1. HOW ARE SAND BEACHES PROVIDED UNDER THE ADOPTED ORDINANCE?
Mr. Mogen stated that it is not clear if the Council intended to allow new sand beaches to be created. Rena Weber informed Attorney Mogen that “no” the council does not wish to allow new sand beaches.
2. ARE MOWED GRASSES PROTECTED UNDER THE “GRANDFATHER” CLAUSE?
No action is needed as the use is allowed to continue. Attorney Mogen did add this sentence after the first sentence of Subdivision 16(A). “Except as a condition of a variance or other land use approval, or as voluntarily agreed to by the property owner, disturbed areas, including sand beaches, that can be shown to exist as of the adoption of this ordinance, may not be required to be restored.”
3. IS TRIMMING OF TREES AND BUSHES ALLOWED UNDER THE ORDINANCE?
Rena Weber had indicated to the attorney that “yes” this is correct. Attorney Mogen had suggested adding language to Subdivision 16 (A) (6) so that it reads: “6. Removal of trees and branches that: (i) pose a safety hazard; (ii) are necessary to maintain the health of the plants; or (iii) are necessary to preserve the appearance and density of vegetative cover existing at the time of adoption of this ordinance.”
It should be noted that in order to add this sentence another public hearing would need to be held.
4. HOW ARE AGRICULTURAL PESTICIDES AND FERTILIZER APPLICATIONS AFFECTED BY ORDINANCE?
The question was in regards to spreading of fertilizer in the 50’ shore impact zone being prohibited. Rena Weber reported that the rule applies to Agriculture as well.
5. HOW SHOULD THE ORDINANCE REFERENCE THE STATE STATUTE, MS 462,357, SUBD 1E, DEALING WITH NON-CONFORMITIES?

Rena Weber reported that the statute, and any succeeding versions, already applies to the City. Attorney Mogen suggested that the City reference to the state statute through other means such as the application materials.

Motion by Member Palmer, second by Mayor Herberg, to approve publication of a Summary Ordinances 2008-50 & 51 and further that the city will look at the adding verbiage regarding (6) “removal of trees/branches, etc. in six months. (A complete copy of both the summary and Ordinance is hereby attached).

***AYES: Ahles, Becker, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 7 to 0 vote.***

COMMITTEE REPORTS

MAYOR’S REPORT – Mayor Herberg referred to Member Ahles for a report on:

5TH MONDAY GROUP – Member Ahles reported that a majority of discussion was around the School District #750 Task Force that met to consider a referendum to build a new facility in Cold Spring. The school wanted the opinion of the cities on the new proposal. The School District is looking at tearing down the brick portion of the present Middle School, keeping the gym, the Senior Center and the new portion. They are estimating a cost of \$1.4 million to add a B-wing to Rocori High School with a total estimated cost of \$30 million dollars. The reason it did not go to vote this year is that the School District has to go through state approval first.

AREA CITIES REPORT - Rena Weber reported on the area cities meeting held in Sauk Rapids on September 30th. The group sat through an hour discussion on the \$50 million dollar upgrade to the Wastewater Treatment plant in St. Cloud along with some of the interceptor lines.

Rena also reported that Mayor of St. Cloud is looking for people to serve on a task force to consider inebriate housing for the St. Cloud Area. Rockville was not specifically addressed in the letter so it is not apparently necessary to appoint someone from Rockville to serve on the committee.

PERSONNEL COMMITTEE – Chair Volkmuth reported that the committee met three times to interview applicants for the Finance Director position. In total they interviewed 6 people and

narrowed it down to 2 people who were interviewed again tonight. The Personnel Committee voted unanimously to recommend Amy Goerger for the position at step 0 - \$16.36/hour.

Motion by Mayor Herberg, second by Member Ahles, to approve hiring Amy Goerger as Finance Director at \$16.36 per hour.

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

Motion passed on a 7 to 0 vote.

NEWSLETTER INFORMATION – Member Volkmuth indicated that he would like to bring back discussion regarding the candidate information in the city newsletter. He talked to people who did not like the idea of leaving that information out. He did talk to other candidates who felt it was a good idea and he is asking the council to look at it. This will provide equal treatment, we are getting information to the public, it saves \$ for candidates, and he would redo the letter to reserve the right to edit if it gets over 150 words.

Member Palmer indicated that she thought about this also and views it as a public service. We are putting the information out there, there is no picking or choosing, just simply getting the info out. There is no endorsement from any public official.

Motion by Member Volkmuth, second by Member Palmer, to direct staff to send out another letter reserving the right to edit the letter to 150 words, get the letter out as soon as possible so the newsletter can go out next week.

Member Simon reported that he talked to someone that does not get the Cold Spring Record, the St. Cloud Times or the internet and feels this is a way to reach all the citizens in Rockville.

Member Becker was concerned about the public that was here last time and they were against it.

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

Motion passed on a 7 to 0 vote.

ADDITIONS TO THE AGENDA

STONE'S BAR LIQUOR LICENSE TRANSFER – Rena Weber reported that Liza Fuchs is seeking approval to transfer the on-sale liquor license for Stoney's Bar to Darin Ennen. A background check and approval is needed from the State of MN. Mr. Ennen was present at the meeting.

Motion by Member Volkmuth, second by Mayor Herberg, to approve the transfer of the on-sale liquor license from Liza Fuchs to Darin Ennen pending approval of the background check and State of MN approval.

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

Motion passed on a 7 to 0 vote.

Member Pflepsen wished to make Darin Ennen aware of the fines that were stayed for this license in the past and the fact that the city does not want make a habit of doing this. He wished Mr. Ennen well in the business and suggested he do it whatever the State representatives tell him to do.

MECA 319 GRANT – Rena Weber presented a letter of request seeking MECA – 319 grant money to sponsor stormwater workshops at city hall. The cost is \$1500 per session with approximately \$100 being the out of pocket cost to the city. \$1400 would be considered in-kind donations. In light of the fact that the city has passed the Stormwater Management Ordinance this would be additional training for staff to learn about our responsibilities.

Member Pflepsen indicated it is a lot of bang for the buck and would be good for the city to participate in. Member Pflepsen also suggested we send a letter out to the Lake Associations to see if they would kick in the \$100 per session and invite their members to attend.

Motion by Member Pflepsen, second by Member Becker, to approve requesting the MECA-319 grant money for Stormwater Management courses.

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

Motion passed on a 7 to 0 vote.

GREEN ACRES MEETING – Rena Weber reminded all that a Green Acres meeting will be held at Rockville City Hall on 10/7/08 – 2 p.m. to 4 p.m. This is put on by Stearns County Assessor's. **SIDING CHANGE REQUEST** – Rena Weber reported that Carla Brundell lives on Alvin Court and is seeking approval to put siding on that does not match the horizontal design as the house. The council stated that it had to match the house according to the ordinance.

STREET & FINANCE COMMITTEE MEETING – Rena Weber reported that she would like to schedule a joint Street & Finance Committee meeting to discuss issues affecting both committees. It was determined that a meeting would be held on 10/8/08 at 6 p.m.

ROCKVILLE COUNTY PARK – Member Simon reported that another public hearing on the County Park was held on 9/23/08 where they discussed possible trails with them being paved VS non-paved. They also looked 3 at different drawings and will go back to evaluate comments made that night. 10/16/08 is the next meeting.

OPEN FORUM

Duane Willenbring – 215123 County Road 139 stated the issue has been cleared up as to when does an ordinance become effective and the 6 member approval is only for the summary publication. Mr. Willenbring asked that since the Rock Fest is over how you explain the budget having been exceeded on:

Trophies and Awards was charged to Special events and this came through this month \$187.00 over budget.

Operating Supplies/Expenses has \$1,200 allocated and this is \$965.20 over budget.

Rena Weber explained that the Coordinator presents a written report to the council at the end of the year. A summary will be given to Mr. Willenbring.

ADJOURNMENT – *Motion by Member Palmer, second by Member Volkmuth, to adjourn the meeting at 6:52 p.m. Motion carried unanimously.*

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

BRIAN HERBERG
MAYOR