

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,  
NOVEMBER 19, 2008 - 6:00 P.M. – ROCKVILLE CITY HALL.**

The meeting was called to order by Acting Mayor Don Simon. Roll Call was taken and the following members were found to be present: Council Members Vern Ahles, Bill Becker, Susan Palmer, Don Simon & Randy Volkmuth. Absent: Mayor Herberg.

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Rick Hansen, Planning Commission Chair Toni Honer, Park & Recreation Chair Scott Stenseth, Attorney Jim Mogen & Engineer Scott Hedlund.

Others present were: Pat Grelson, Tудie Hermanutz, John Koerber, Dave Volkmuth, Dick Nieters, Duane Willenbring, Joel Sponheim, Jerry Schmitt, Vince & Audrey Schaefer, Gene Merten, Jeff Hagen, Marilyn Montreuil, Jim Unterberger, Dennis Lowen, John Wicker, Clarence Bloch & George Bechtold.

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

Acting Mayor Simon reported that discussion on the Dan Hansen IUP was pulled until a date when Mr. Hansen and Jack Tumble could both be present.

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

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

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

Member Volkmuth questioned the Data View bills.

a) **Approve Minutes of 11/05/08**

b) **Approve Treasurer’s Report of 11/19/08**

c) **Approve List of Bills and Additions of 11/19/08**

**Accounts Payable Ck #010752 - 010792**

**\$57,501.13**

**Payroll Ck # 003243 to 003274**

**12,363.85**

**EFT #000157 to 000160**

**1,654.86**

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

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

**BOARD/STAFF REPORTS**

**POLICE** - Lt. Jon Lentz reported there were 46.5 contract hours and listed the types of calls. Lt. Lentz reported the city currently contracts for 45.5 hours at \$40.00/hour. \$45.00/hour will be the new rate for 2009. Lt. Lentz would like to remove the ½ hour portion of the contract. It was determined that the hours would be discussed at the Finance Committee meeting.

**PLANNING COMMISSION** – Chair Toni Honer reported on the following:

**ORDINANCE NO. 2008-53 PROVIDING FOR AN EVENT CENTER** - Toni Honer reported that the Planning Commission has reviewed the ordinance and recommends approval.

Rena reported on the ordinance adoption procedure and read Jeff Hagen’s questions regarding the proposed ordinance.

- 1) How does this use fit in with the consolidation agreement, with the comprehensive plan, future land use plan for the City of Rockville?
- 2) How does this fit in with the purpose and goals of the A-40/SP-1 districts?
- 3) I don’t believe we can deny CUP’s for this and similar uses anywhere else in these districts if we change our ordinance. Certainly the city’s position is weakened and opened to legal challenge for each future applicant.
- 4) I don’t believe we can control the bar/restaurant/entertainment uses of this property or any other future CUP in these districts once the “use” is granted.

- 5) I think we open the door for anyone to argue a CUP be granted for any use "less intensive" than bar/restaurant/entertainment use if this ordinance is changed and there are not many uses more intense than bar/restaurant/entertainment, maybe strip joint, maybe fast food restaurant???
- 6) I don't think the city can control the activities, hours, days of operation, size of building/operation, etc. of these operations once they are granted a CUP as long as those buildings, activities, hours, days, etc don't break any other current laws, ordinances, etc.

Attorney Mogen responded with:

"These questions all basically question how the City can control or limit commercial uses in the A-40 district that are similar to those provided in the Conditional Use Permit, if the zoning amendment is adopted.

First, the zoning amendment only allows "Event Centers". While the ordinance can be strengthened by specifically defining Event Center, the common use of the term is distinctive from other uses (such as bar, restaurants, etc). Therefore, the uses allowed would be limited to "events", or periodic engagements that are not open to the general public, but are by invite or require tickets or other entry approval.

Second, the terms of the ordinance limit the use. For example, the hours of operation, the setback from residential structures and the road, and the number of attendees, are all laid out in the ordinance. Once granted, the CUP is a property interest, but must comply with these performance standards.

Third, the CUP itself can include additional conditions that are related to the use and designed to lessen the impact on neighboring properties. These conditions are based on specific conditions of the proposed site and use, and can go beyond the performance standards of the zoning ordinance."

Member Volkmuth asked if this establishment will require a liquor license. Are we hurting other businesses who are struggling? Rena Weber indicated that the owners will ask for wine or 3.2 malt liquor license.

Chair Honer stated that the Planning Commission is looking at this for the whole city not just what this person wants.

Member Volkmuth feels it is a competition issue and needs to be addressed.

***Motion by Member Palmer, second by Member Ahles, to schedule a public hearing for 12/17/08 – 6:30 p.m. to consider adoption of Ordinance 2008-53 as presented.***

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

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

**MAINTENANCE DEPARTMENT – Rick Hansen reported on the following:**

**RATE INCREASE PROPOSAL ON EQUIPMENT –**

<b>Rate Increase Proposal:</b>	<b>Current</b>
Mail Box's	\$95.00 picked up/ \$120.00 Delivered \$75.00
Tandem Axle Dump Truck	\$80.00 per hour Labor/Equipment 65.00
Tandem Axle Dump Truck with plow	\$100.00 per hour Labor/Equipment 65.00
1 Ton Truck	\$60.00 per hour Labor/Equipment 60.00
1 Ton Truck with plow	\$75.00 per hour Labor/Equipment 60.00
Toolcat	\$45.00 per hour Labor/Equipment

\* All rates are based upon 1hr minimum

***Motion by Member Volkmuth, second by Member Becker, to approve the rate proposal as presented.***

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

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

**CHRISTMAS LIGHTS** – Rick Hansen reported that during the re-construction of County Road 82 four electric poles were moved and the wiring to the Christmas lights was disconnected. The City would need to pay to rewire the X-mas lights. The decorations are reduced to 7 and Rick asked if the council wished to not put up any.

Member Volkmuth indicated he was okay with not putting them up.

Member Ahles questioned why weren't the electric boxes put back in? Rick indicated it would have still been our expense.

Member Becker indicated that he would like to see what the price is to replace with new decorations and put the additional four boxes back in.

### OLD/NEW BUSINESS

**CANVASS OF RECOUNT RESULTS** – Rena Weber presented the recount results from the City Council positions citing no change in the results:

Bill Becker	470
John Koerber	468
Don Simon	467

***Motion by Member Palmer, second by Member Volkmuth, to accept the recount results as presented.***

***AYES: Ahles, Palmer & Volkmuth***

***ABSTAINING: Becker & Simon***

***Motion passed on a 3 to 0 vote.***

**OATH OF OFFICE** – With the results now being official Rena Weber issued the Oath of Office to John Koerber. Mr. Koerber will fill the remaining term of Jim Pflapsen until 12/31/10.

**MAINTENANCE CONTRACT WITH MAINE PRAIRIE TOWNSHIP** - Rena Weber explained the contract was mainly written to cover snow removal costs 50/50 on 210<sup>th</sup> Street & Grand Lake Road (County Road East to 11092 Grand Lake Road).

Maine Prairie Township Board Members present were: John Wicker, Jim Unterberger, and Dennis Lowen.

John Wicker stated that the Township will not get any money for 2009 and the city has an obligation to maintain the roads through 2009.

Attorney Jim Mogen explained that the city is not under any law to maintain the roads, but that the neighborly thing to do would be to discuss this.

Dennis Lowen stated that what James Mogen stated is correct, but they came here three times to negotiate last spring and got nowhere. He does not want to spend more money on attorneys.

Member Volkmuth indicated that the city should take care of them through the end of this year, he is not sure about 2009.

Member Palmer suggested negotiation team should meet with the Township officials.

John Wicker thought the city should take care of snow plowing for the entire season.

***Motion by Member Becker, second by Member Koerber, to approve the negotiating team meet with Maine Prairie Township and the Administrator/clerk will notify the Town Clerk of such dates.***

***AYES: Ahles, Becker, Koerber, Palmer, Simon & Volkmuth***

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

***Motion by Member Volkmuth, second by Member Palmer, to approve the city continuing snow plowing of the 6 detached sections until 12/31/08.***

***AYES: Ahles, Koerber, Palmer, Simon & Volkmuth***

***NAYS: Becker***

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

***Motion by Member Palmer, second by Member Koerber, to approve the following people on the negotiating team: Mayor Herberg, Bill Becker, Randy Volkmuth, with Don Simon as the alternate.***

**AYES: Ahles, Becker, Koerber, Palmer, Simon & Volkmuth**

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

Former resident Gene Merten inquired about grading the road now?

Member Volkmuth stated that is part of the negotiating.

Member Becker agreed with Member Volkmuth.

**CRANE PUMP SETTLEMENT** – Attorney Mogen indicated what the agreement covers and how it will cover changing out the remaining pumps by 6/30/08. Liquidated damages amount to \$50.00 per pump per day if not completed by that time. Ralph Walz will be hired by Crane Pump to install the remaining 210 units. The warranty period starts next March and will continue for 5 years until 3/1/2014.

Member Palmer asked what was the original warranty? Attorney Mogen stated it was from the date of installation.

**Motion by Member Becker, second by Member Volkmuth, to approve the settlement agreement with Crane Pumps as presented.**

**AYES: Ahles, Becker, Koerber, Palmer, Simon & Volkmuth**

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

## COMMITTEE REPORTS

**MAYOR REPORT** – There was none.

**ECONOMIC DEVELOPMENT AUTHORITY** – Rena Weber explained that with Jim Pflapsen no longer being on the EDA a replacement is needed. With the change due to elections Bill Becker and Duane Willenbring could represent the Council, Vern Salzl and Ed Karls could represent the business community, but an at large position needs to be filled.

Discussion was held regarding the fact the new council should appoint the replacement.

**Motion by Member Volkmuth, second by Member Palmer, to authorize the Administrator/Clerk to advertise for a replacement.**

**AYES: Ahles, Becker, Koerber, Palmer, Simon & Volkmuth**

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

**FINANCE COMMITTEE** – Chair Palmer reported the last meeting was held on 11/10/08 and the next meeting will be held on 11/25/08 – 6:00 p.m. – City Hall

The following was discussed:

- History of the stock market and how it affects cities
- Review bond issues – call provisions and any opportunity to refinance?
- Fire Relief Assn – investment portfolio (Finance Committee will review)
- Amy Goerger went through the budget and made revisions to the budget
- Amy will also do a cost analysis of detachment.

**PARK & RECREATION** – Chair Scott Stenseth reported on the following:

ROCKVILLE SANTA DAY – will be held on 12/7/08 from (1 to 3) at City Hall

PARK & RECREATION BOARD MEMBER – Scott reported that Dale Borgmann has applied for membership on the board and is recommended for approval.

**Motion by Member Ahles, second by Member Koerber, to approve the appointment of Dale Borgmann to the Park & Recreation Board effective immediately.**

**AYES: Ahles, Becker, Koerber, Palmer, Simon & Volkmuth**

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

HOCKEY RINK MAINTENANCE – Scott reported that Steve Heying will be icing the hockey rink again this year.

NEXT MEETING – The next meeting is 12/4/08 – 7: 00 p.m.

Don Simon reported that last night was the last meeting on Rockville County Park. From here it goes to the Stearns County Commissioners next month for their approval.

### ADMINISTRATOR'S REPORT

**CERT TRAINING** – Rena Weber reported that Mike Hofmann was present and could report on the CERT Training. Mike indicated the training has concluded and members will be here on 11/24/08 for graduation at 8:15 p.m. Mike reported that 20 people took the class with 6 being from the city of Rockville. Mike invited the council to attend the ceremony.

**210<sup>th</sup> STREET – TRAFFIC STUDY RESULTS** – Rena Weber reported that there will be no change in the speed limit on 210<sup>th</sup> Street. MNDOT conducted the study and determined that warning signs need to be placed along the areas where there are curves and/or hazards.

**COMMITTEE LIST** – Rena Weber reported that Mayor Elect Jeff Hagen asked that the new council consider “acting mayor” along with the list of committees to be selected.

**HOLIDAY OPEN HOUSE** - Rena Weber reported that the annual Employee Appreciation event would be held on 12/17/08 – after the council meeting. This is a pot luck event.

### OPEN FORUM

Duane Willenbring – 25123 County Road 139 indicated that Don Simon eluded to the final presentation of the County Park plan and asked have we as the city had interaction in the development of the park?

- Would the city allow firearms to be in the county park?
- Would we allow waterfowl hunting?
- Who will take care of vagrants that hang out at the park?
- Will signs be posted on Glacier Road?
- Is a speed limit change contemplated on CR139?

Duane Willenbring also asked when the contract with Rinke Noonan is up. Rena Weber reported that the practice is to review engineer, attorney & accountant on a 3 year cycle.

Jeff Hagen – 21614 County Road 8 – questioned the 2009 revenue and expense budget due to the detachment with the loss of \$58,000 revenue and saving an additional \$27,000 in expenses. So in April & October we will still collect the \$58,000. Did we really think that there would be a lag in collecting the revenue?

Member Volkmuth asked if this was expected.

Attorney Jim Mogen stated the detachment happened after August so state law dictates the money stay in the city being detached from. Budgets are set during that time.

Jeff Hagen stated that timing makes a huge difference.

Rena Weber voiced concern that in the past there is an 80, 60, 40, 20 split of the taxes, but this was not addressed in the detachment order.

Attorney Mogen stated it is different for detachment.

Audrey Schaefer – 541 Caroline Lane stated she would like to address the Xmas decorations. She was on the original committee who worked with the Rockville Lion's Club and they purchased the decorations. The decorations are enjoyed by many people and she hates to see that go down the tubes. She urged the council to ask John Koerber and maybe he can approach the Lion's Club to see if we could get new decorations. Regarding the remaining decorations, 7 are better than none.

Rena Weber reported that a letter was sent to the Lion's back in March and received no response other than there isn't any money.

John Koerber agreed to the statement, but volunteered to ask the Lion's Club again.

**ADJOURN – Motion by Member Volkmuth, second by Member Becker, to adjourn the meeting at 7:08 p.m. Motion carried unanimously.**

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VERENA M. WEBER-CMC  
ADMINISTRATOR/CLERK

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DON SIMON  
ACTING MAYOR

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