

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,
OCTOBER 15, 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 Bill Becker, Jim Pflapsen, Don Simon & Randy Volkmuth. Absent: Vern Ahles & Susan Palmer.

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Rick Hansen, Rock Fest Coordinator Kathleen Stanger, Park & Recreation Director Scott Stenseth & Engineer Scott Hedlund.

Others present were: Deputy John Niemi, Aaron Cheeley, Tудie Hermanutz, Dick Nieters, Sharon Sponheim, Duane Willenbring, Jerry Schmitt, Vince Schaefer, Jeff Hagen, Ev Balko, John & Linda Peck, Bonnie Ring, Clarence Bloch & George Bechtold.

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

AYES: Becker, Herberg, Pflapsen, Simon & Volkmuth
Motion passed on a 5 to 0 vote.

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

- a) **Approve Minutes of 10/1/08**
- b) **Approve Treasurer's Report of 10/15/08**
- c) **Approve List of Bills and Additions of 10/15/08**

Accounts Payable Ck #010655 – 010701	\$95,203.80
Payroll Ck # 003207 to 003234	9,231.26
EFT #000151 & 000152	1,182.42
- d) **Approve St. Augusta Blizzard Busters raffle 2/7/09 (400 Club)**

AYES: Becker, Herberg, Pflapsen, Simon & Volkmuth
Motion passed on a 5 to 0 vote.

BOARD/STAFF REPORTS

POLICE DEPARTMENT – Stearns County Sheriff's Deputy John Niemi reported that there were 42.5 contract hours during the month of September and he listed the types of calls.

Member Simon asked where were those speeding tickets issued. The officer indicated that this is not indicated on the report.

PARK & RECREATION – Scott Stenseth reported on:

SURVEY OF RESIDENTS - A few months ago we sent out a survey asking our residents for input on our city parks. This is a brief summary of what we received. While we received a relatively small amount of surveys back, I think there are some conclusions that we can draw. People tended to go to whatever park was closest to them. In general they liked having four parks serving four different purposes in four different areas. The walking paths and playground equipment were the favorites among most of those surveyed. Other things people liked were the open spaces and ball fields. Overwhelmingly, the number one thing people wanted was to make sure we did a good job on upkeep of our parks. This would include things like doing of better job of maintaining the walking paths, weed killing and fertilizing of open grass areas, making repairs/upkeep of existing infrastructure and making sure trash was picked up. Other suggestions for improvements were planting more trees, additional walking paths, additional signage for Eagle Park and adding a Frisbee Golf Course to Lions Park.

Examples of what they have done already

- Killed the grass at Lion's Park
- Re-aligned the baseball bases
- Eagle Scout project that the scout re-did the community park hockey rink

MEMBERS RESIGNED – Scott Stenseth reported that Michelle Monson and Glenn Imholte both resigned as Park & Recreation Board members due to work reasons. He expressed thanks to both Michelle and Glenn for their service to the community. Applications are available at city hall if anyone is interest in serving on the Park & Recreation Board.

ROCKVILLE SANTA DAY – Scott reported this will be on 12/7/08 from 1 p.m. to 3 p.m. at City Hall.

REQUEST FOR COUNCIL ACTION EAGLE PARK – Scott indicated that the Park & Recreation Board would like to request permission to spend approximately \$5500 for 2008 stewardship of Eagle Park by North American Prairies. This would include applying broadleaf herbicide to noxious weeds and mowing the park as needed. Payment would come from 202-45122-511 Designated Fund for Eagle Park.

Motion by Mayor Herberg, second by Member Becker, to approve the request as presented

Member Pflapsen questioned why this came now after the work has been done. There is a process where approval is obtained before the work is done.

Rena Weber presented a one page document from John Peck explaining what has been done. (A copy is hereby attached and marked Exhibit A).

The council discussed that phase 3 of the establishment of the prairie (\$8500) should be brought in next spring for approval.

AYES: Becker, Herberg, Pflapsen, Simon & Volkmuth

Motion passed on a 5 to 0 vote.

NEXT MEETING - 11/6/08 – 7 p.m.

ROCK FEST – Kathleen Stanger reported on the following:

FINANCIALS – Kathleen indicated that Rock Fest faired okay, but the timing was bad. Revenues were down on the car show, but games were up, better than they ever have been.

- Overall expenses are \$14,525.51 to date – one more bill in the amount of \$100 for the rental of cooler from Mike Schreifels is still coming.
- Budget \$401.49 less than budget which has \$14,927.00
- Next meeting October 22nd 7:10 p.m. – Granite Edge Cafe
- Rock Fest dates are 7/11 & 7/12 next year
- Revenue to date \$11,126.73 \$260.18 was left over from 2007
- Tax money that is coming to them is \$2,115.27 = \$13,502.18 Total Revenue
- \$1,023.30 check written today so we should have a clean slate
- \$21,316.54 current balance
- \$19,989.70 balance last year so this is a \$1,326.84 increase
- Raffle did not happen and the car show did not bring in enough revenue
- 10/24/08 next teen dance - 6:30 p.m. at the Parish Center – \$8.00 to get in & this is for 6, 7 & 8th graders
- Issues/options – move downtown, keep where it is, or move it to the ball park

It was determined that the Council would like to know numbers.

Member Pflapsen indicated that we need to look at the trend of the thing and seek out other towns to see what their successes are. We are not going to answer her questions at a council meeting. With the beautiful weather where was everybody.

Scott Stenseth reported on the tractor pull where they had more entrants in the past, but the cost of gasoline may have played a roll.

RECESS TO PUBLIC HEARING – 6:30 P.M. Mayor Herberg announced that a public hearing would now be held to consider approval of Ordinance No. 2008-52
Rena read the notice of public hearing.

Sharon Sponheim 21556 CR 8 – stated that it seems to me that what you receive now is \$1500 for Mayor and \$1200 for Council is sufficient. If you increase it to \$250/month or \$3,000 for the Mayor it would be a 75% increase. Yes this is a tough job, but with the economy as it is you should not be thinking about giving yourself a raise. To bring the watermain to SJ Louis caused a

\$92,000 mistake so you should not be giving yourself a raise. There were 8 people who filed for council and 3 for Mayor. They did not have a raise in mind when they applied.

Motion by Member Simon, second by Member Volkmuth, to close the public hearing at 6:39 p.m.

AYES: Becker, Herberg, Pflapsen, Simon & Volkmuth

Motion passed on a 5 to 0 vote.

Member Becker asked when was the last time a raise was given. 1996

Member Volkmuth reviewed the salary survey from the League of MN Cities and reported the ranges are from \$2500 to \$3000. It seems like we are at the low end, but some are lower than us. We have to make it somewhat competitive and going up 75% is a lot, but nothing was given in 13 years so we are trying to catch up. It is always hard to give yourself a raise.

Member Pflapsen indicated that Ms. Sponheim made a good point in that 7 – 9 people are running for council with 3 running for mayor and they are not running for the money.

Member Simon stated that one of the questions he asked people while campaigning is do you think this is unfair. Most people said "That's all you get?" The next person said you have to be competitive; if the finances are there it should be okay. A lot could not believe that we were that low. To him – if it were for money he would not be here. Some people in other cities give their money back, but the general public feeling is it does not really matter to them. He might even give the raise back to the city in a special fund. You don't have to put down for every special meeting. You have to look at the big picture for the whole city.

Member Volkmuth reported the Mayor receives \$1500/year.

- Barnum with a population of 598 pays their Mayor \$3,000
- Arlington with a population of 2110 pays \$2500
- Albany population of 2138 pays \$2600
- Breezy Point with a population of 1642 pays \$2400
- Crosby with a population of 2313 pays \$7200
- Glenwood with a population of 2650 pays \$3600 so it does seem like quite a difference.

Randy Volkmuth also feels this should go before the Finance Committee yearly and reviewed for minor increases.

Mayor Herberg reported that raises can only be given prior to an election so no raises on a non-election year.

Member Becker stated the increase equates to 17 or 18 miles gallons of gas over a month period of time. Do council members burn more than 17 or 18 gallons of gas in a month?

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

ORDINANCE NO. 2008-52

AN ORDINANCE AMENDING THE COMPENSATION OF MAYOR & COUNCIL MEMBERS FOR THE CITY OF ROCKVILLE, MINNESOTA:

The Rockville City Council amends Basic Code Section 30.08 Compensation of Mayor & Council Members to read:

Subd. 1 The Mayor for the City of Rockville shall be compensated at:

- a) ***\$250 per month to include all regularly scheduled council meetings and general business of the city.***

Subd. 2 The Council members for the City of Rockville shall be compensated at:

- a) ***\$175 per month to include all regularly scheduled council meetings and general business of the city.***

Mayor Herberg stated that all he hears is that the city is spending money uncontrollably.

Member Simon stated we have county boards that have put in a raise without a public hearing. It is a tough one.

Member Pflapsen stated that people know where he stands so it has to be one of the guys up for re-election.

Mayor Herberg indicated that this thought has been brewing in the last two years.

Departments have been asked to cut their budgets or let their raises go.

The motion for the foregoing ordinance was duly seconded by Member Becker with the following vote being taken:

AYES: Becker, Simon & Volkmuth

NAYS: Herberg & Pflapsen

Motion passed on a 3 to 2 vote.

NEW BUSINESS

RED FLAG RULE – Administrator Clerk Rena Weber reported that the Red Flag requires any utility where there is a risk of identity theft, to develop and implement an Identity Theft Prevention Program. The program must include reasonable policies and procedures for detecting, preventing, and mitigating identity theft. The compliance date is November 1, 2008.

Motion by Member Pflapsen, second by Member Simon, to approve the Red Flag policy as presented.

AYES: Becker, Herberg, Pflapsen, Simon & Volkmuth

Motion passed on a 5 to 0 vote.

ENGINEER REPORT

MN LOCAL TECHNICAL ASSISTANCE PROGRAM - REDUCING RISK ON ROADWAY AND DESIGN – Scott Hedlund mentioned that Rick and a Street Committee should attend the next meeting on 11/5. This seminar provides written policies on what we are doing and why we are doing them. This should be a goal to develop these in the next year. Cost \$70

Member Pflapsen made a point that you can get carried away on stuff. For instance you create a liability by pointing out a problem.

COMMITTEE REPORTS

STREET COMMITTEE – Don Simon reported on:

400 CLUB DRAINANCE ISSUE – Don reported the committee got the numbers to complete the project:

Phase 1 – city project will be to re-locate the storm sewer from the 400 Club north to public access

Preliminary Plan & Preliminary Easements have been approved by the DNR
\$20,000 (includes the paving of Lake Road)

Phase 2 – will involve Stearns County Soil & Water, Cherie Verkinnes, Pleasant Lake Homeowner’s Association, other agencies with grant money, and possibly the city (rain garden in park area).

Cost Phase 2:

Engineer	\$9,500
Construction	
Paving	35,000
Paver/soak away	20,000
NW Rain Garden	3,500
Park Rain Garden’s	10,500
Gutter re-route	<u>250</u>
TOTAL	\$79,500

Potential Pots of Money:

City	\$20,000 for phase 1	
SC SCSW	400 Club	PLHA \$5,000

Don Simon stated that we need to talk to Cherie Verkinnes and see if she is willing to contribute to this, or what the County will pay.

GLACIER ROAD CULVERT - Don Simon reported that the committee discussed the bids to repair this culvert. The committee asked Rick to get bids on a culvert and apron. This would get paid from Fund 215 which has \$100,000.

Concern was voiced regarding the liability issue for the city since this is caving in right off the roadway. This is also used as a cow pass.

The City paid for the culvert replacement on Echo Road which also contained a cow pass and there were no assessments with this project. Mayor Herberg indicated that he would rather see this fixed with a culvert and apron which could be more expensive, but that it is a safety issue.

Two bids were received:

Steve Kraemer Excavating	\$10,740
Krippner Trucking & Excavating	10,990

Member Volkmuth voiced concern in regards to if we are providing this kind of project for a cow pass. It was reported that the farm owner has contributed gravel in the past to construct the road and also will donate to the re-construction now.

Motion by Mayor Herberg, second by Member Pflapsen, to approve the bid of Steve Kraemer Excavating, in the amount of \$10,740 per the bid.

AYES: Becker, Herberg, Pflapsen & Simon

NAYS: Volkmuth

Motion passed on a 4 to 1 vote.

L & M SERVICES – Member Simon reported that \$3,110 was approved originally which really was for one day of air patching.

Rick reported the bill was for 1 ½ days of air patching \$4,090. L & M Services did one days work. Rick discovered that the bid was more than what he had approved \$3,110. Rick called the company and told them that he did not need the ½ day. The person that Rick talked to did not inform his people of the cancellation and the ½ day was done anyway.

Member Simon stated that the Street Committee recommended approval because we did get the benefit, but to check the wording of the contract next year.

Member Pflapsen thought they did a great job.

Motion by Member Pflapsen, second by Member Volkmuth, to approve the \$4,090 bill as presented with a closer look at the wording in the contract next year.

AYES: Becker, Herberg, Pflapsen, Simon & Volkmuth

Motion passed on a 5 to 0 vote.

MAYOR'S REPORT – Mayor Herberg reported on what he has been hearing on the street:

- Thoughts that the city is broke and that we are like AIG – This is farthest thing from the truth – The general fund balance is the healthiest it has ever been in the City of Rockville
- City is in the arrears on sewer payments – This is a false accusation, however, there have been a couple of developers who have struggled in getting their payments in, but payments have been made accordingly.

Member Pflapsen stated that people need to be reminded that the level of taxation of Rockville is the lowest of cities the same size and urged people to compare us to any cities in Stearns County.

ADMINISTRATOR REPORT

SCML – Rena Weber reported that the next Stearns County Municipal League meeting will be held at the new St. Cloud Public Library on 10/21/08 – 8 p.m.

CANDIDATE FORUMS – Rena Weber reported that candidate forums or town halls will be held:

10/16/08 – 400 Club – 7 p.m.

10/23/08 – City Hall by the League of Women Voters – 7 p.m.

10/30/08 – Granite Edge Café – 7 p.m.

ICC – Rena Weber reported that the 2009 *International Residential Code (IRC)* will require sprinklers in new one and two family residences as of January 1, 2011; a change approved by more than 73 percent of Code Council voting members. Another code change will require sprinklers in townhouses to take effect when a jurisdiction adopts the 2009 IRC.

ADDITIONS TO THE AGENDA

STONE'S BAR – REQUEST FOR 2:00 A.M. LICENSE – Rena Weber reported that Darin Ennen has requested approval of the 2:00 a.m. liquor license now.

Motion by Mayor Herberg, second by Member Pflepsen, to approve the 2:00 a.m. liquor license as requested.

AYES: Herberg, Pflepsen, Simon & Volkmuth

NAYS: Becker

Motion passed on a 4 to 1 vote.

DAN HANSEN ANNUAL REVIEW IUP - Rena Weber reported the annual review of the Interim Use Permit is now due. She had contacted Dan Hansen, but he was unable to attend this meeting and asked to have this scheduled for 11/5/08 instead.

SHARON SPONHEIM – QUESTION ON LID FINANCING - Sharon Sponheim-21556 County Road 8 questioned the council on if the clean water, land & legacy amendment passes will we still have the Lake Improvement District. Ms. Sponheim is concerned about the legality issues and wanted to know if the council would take a look at her concerns and get back to her.

1. If the clean water, land and legacy amendment passes where 33% goes to wildlife habitat and 33% goes to water quality which they are estimating at 300 million a year for 25 years, are we still going to have a Lake Improvement District? If yes, what would the city council do if no financing of programs (Resolution 2007-22 4.0 D) was recommended?

Member Volkmuth's understanding is that for the first year it would remain and he thought we had to look at this each year. If there is enough people that don't want it they would have to bring it back to the council.

Member Pflepsen felt this question is premature. First, the bill has to pass and it remains to be seen what benefits will be seen. The LID was approved by the property owners in the Grand Lake area and whether or not the Grand Lake area is going to get any money out of this act is hard to say.

Mayor Herberg stated that even if the amendment passes the district can still be there with no levy being put on the taxes. If there is a need or a project they would bring that request forward.

Sharon Sponheim reported that one other thing related to the petition of 51%. This was completely disregarded by the lawyer due to the fact that we adopted it by resolution which makes the petition no longer in effect. You made the attempt to say we have a Lake Improvement District in effect.

First of all we don't have a problem with water quality. Where the problem comes to be is in looking at this is the resolution. We need to look at the resolution 40.D Financing of programs. She would like to see this amended to read that this is only after other sources are received including the legacy act which is part of 103B.555.

- D. Financing of Programs. The manner of financing such programs and services shall initially consist of the levy of ad valorem taxes solely on property within the Lake Improvement District, but may also include the imposition of service charges, the issuance of obligations as provided in Minnesota Statutes, Chapter 429.091, levy of special assessments pursuant to Minnesota Statutes 429, or a combination of any of the above.

Member Pflepsen stated that Ms. Sponheim is assuming that the LID will be getting some of the money from the legacy act.

Ms. Sponheim stated that Section D. does not allow for any other financing.

Mayor Herberg reported that this section refers to Chapter 429 which is the assessment process.

Sharon Sponheim cited 103B.555 – Financing To finance projects and services of the district, the county board (city council) or joint county authority may, only after seeking other sources of funding assess the cost as ad valorem taxes.

Member Volkmuth stated that his understanding is that the Board who is elected has to decide how to spend the funds on a year to year basis. It was determined that this would come back to the City if the district wishes to disband.

Sharon Sponheim stated they would have to come back to disband it before the assessment of taxes on the property.

Member Volkmuth stated that this year it has been okay.

Sharon asked when was this Okayed.

It was reported that the budget for the LID had been submitted along with other city budgets for approval at the 9/3/08 meeting.

Member Pflipsen stated that if the LID submitted a budget with a list of projects it would pretty much be approved as this is a request from the taxpayers. You need to discuss this with the board.

Sharon also voiced concern regarding the Resolution where it comes down to Board of Directors. You have it where the Board shall be appointed to staggered so that no more than two Board Member's terms will expire at one time. If you go to the By laws the terms of office are for three years and three members terms expire on the 31st day of December, 2008, 3 in 2009 and 1 in 2010. Which one do you go by?

Part of the law of the LID is that you have a Board meeting, you have to hold an annual meeting; you have to send out a postcard notice 10 days before the meeting (which was not done). She said the postmaster can attest to this. She also said the notice has to be published twice. The new Board members have to be elected at the annual meeting and the by-laws say that three of them will be done on 12/31/08. No Board members were voted on to be done with on 12/31/08.

The Council selected the initial Board, but at the annual meeting the Board should have been elected. She would appreciate if the council would take a look at the information and get back to her at the next meeting.

Member Pflipsen indicated that if what she is concerned about is typos, regarding the expiration of terms typically when there is a legal document signed there is a paragraph stating that if there are any minor corrections that need to be fixed, everybody agrees to do it, and it does not render the whole contract null & void. There is a Board Chair, there are Board members and he encouraged her to write, phone, or email the Board. This is not the forum.

Sharon stated that is why she is here, as a member of the LID she is legally responsible. She wants to see the legality's of it done right because in the DNR it says anybody who is a member of the LID is legally responsible. As she sees it, it is not being done right. So you are all responsible. That's why she very nicely pointed out the things that are wrong for the council to discuss. If not done right does the money that is projected become invalid, does it stay invalid?

Another thing is that the letter from DNR person, Peder Otterson, did an advisory report on 9/5/07 that was put in the packets. By law that should have been read into the minutes and it was not read into the minutes. According to Mr. Otterson, the watershed should be included. "It will be difficult to reduce nutrient input to the lake without the participation of these at the sources, and therefore a watershed-wide boundary for LID is appropriate for achieving its intended purpose." Ms. Sponheim felt the area around the lake should be included.

Member Pflipsen asked Ms. Sponheim if she attended the meetings. *She indicated that Joel (her husband) had attended them.* Several of these issues were discussed at the meetings and it was determined that the better route would be to establish buffer zones.

Ms. Sponheim presented the statutes or the rules.

Rena Weber pointed out that she obviously attended the meeting since she had a copy of the budget included in the information she presented the council.

OPEN FORUM

Tim Massmann – 9882 County Road 47, apologized that he did not make the hearing on the raise. He stated that in August the firemen at their meeting requested the officers to request a raise and the officers told them there was no money for a raise. In Sept. they looked at the minutes and did not see the raise. The question he has is if there was no money in August for a raise for the firemen where was the money found for your raise?

Mayor Herberg reported that there is some money for a pay raise; however, the pay for the officers needs to be worked out. The assumption where there was no money for a pay raise may not be right. The city is dealing with a 3.9% levy limit and the council was looking at where they are currently at, there probably is some money available.

Duane Willenbring – 25123 County Road 139 – asked did he catch that right; the comment made about money to pay North American Prairies came from park dedication fees and is used for creating new parks. This is not being used for maintenance.

ADJOURNMENT – *Motion by Member Becker, second by Member Volkmuth, to adjourn the meeting at 7:46 p.m. Motion carried unanimously.*

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

**BRIAN HERBERG
MAYOR**