

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,  
SEPTEMBER 17, 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, Don Simon & Randy Volkmuth. Absent: Jim Pflepsen.

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

Others present were: Aaron Cheeley, Tудie Hermanutz, Dick Nieters, Sharon Sponheim, Mike Hofmann, Duane Willenbring, Scott Palmer, Tim Backes, Bonnie Ring, Roger Schmidt, Brian Bell, Jerry Schmitt, Jeff Hagen, Dave Volkmuth, Jane De-Austin, Ken & Mary Peka, Michael O'Keefe, Clarence Bloch & George Bechtold.

**ADDITIONS TO THE AGENDA** – There were no additions to the agenda.

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

- a) **Approve minutes of 9/03/08**
- b) **Approve Treasurer's report of 9/17/08**
- c) **Approve List of Bills and Additions of 9/17/08**

<b>Accounts Payable CK #010565 to 010615</b>	<b>\$47,969.19</b>
<b>Payroll CK #003191 to 003199</b>	<b>5,236.81</b>
<b>EFT #000147&amp; 000148</b>	<b>1,249.62</b>
- d) **Approve Band Boosters keeping gambling license at Double Deuce**

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

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

**BOARD/STAFF REPORT**

**POLICE DEPARTMENT** – Sgt. Jon Lentz reported on the contract hours for the months of July & August:

- July - 43 contract hours
- August - 43.5 contract hours

Tobacco Compliance Checks – Sgt. Jon Lentz reported that these checks were not being done in the past for cities the County contracts with. This year on 7/30/08 there was a compliance check at B's Liquor where there was a fail. Jon further stated this calls for an Administrative Penalty of \$75.00 for first time offenders (owner) and \$50.00 for the individual employee.

Rena Weber reported that in the past with regards to liquor violations, the council has stayed the fine if there are no other offenses within a one year period.

**Motion by Member Volkmuth, second by Member Palmer, to table action until we have the attorney view the language to see if we can stay the action.**

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

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

**PLANNING COMMISSION** – Rena Weber and Vern Ahles reported for the Planning Commission:

**J & T EXPRESS SITE PLAN APPROVAL** – Member Ahles reported the Planning Commission reviewed this site plan and recommend approval. The warehouse area is 60' x 80' and the office area is 40' x 40'. What this building would be used for is to transfer merchandise from semi trucks to small trucks for delivering to different sites. This location would be more or less a transfer site.

Tim Backes, representing the owner, stated that there will be 4' of brick on the office part but would check with the owner to see if they would be willing to put granite on it.

**STAFF REPORT**

Re: SITE PLAN APPROVAL  
 76.42146.803: Owners: J & T EXPRESS  
 Property Address: 866 Prairie Court  
 Legal Description: Lot 3, Block 2, Prairie Business Park

## Construction Requests:

1. Construct new building to house semi's and a transfer station.
2. The front of said structure will have 4' of granite or brick.

## Relevant Information:

1. This property is located within the I-1 District.
2. Property contains 3.110 acres

## Recommendations:

1. The sewer and water services to the building should be shown on the site plan. Public Works should approve all materials used beyond the ROW line and observe/inspect utility installation.
2. Site grading must conform to the attached approved Prairie Business Park grading plan. My understanding is the grading shown on the approved PBP ("re-plat" of Prairie Industrial Park) grading plan would be accomplished on a lot by lot basis. It appears the current J&T Express grading plan doesn't include provisions for the drainage swales on the west lot line and east side of the lot. Also, the first floor elevation should be verified that it complies with the grading plan.
3. Provide proper erosion prevention and sediment control BMP's during and after construction (i.e. place silt fence and/or bio-rolls on down gradient sides of disturbed areas and stockpiles, provide erosion control blanket in the bottoms of drainage swales/ditches, re-seed all disturbed areas as soon as possible). This should be shown on the grading plan.
4. The City Building Official (with the assistance of City Engineer as necessary) should verify proper site grading and establishment of permanent erosion control measures prior to issuing CO, or release of security (an option that allows the issuance of the CO prior to erosion control/ turf establishment approval is to require an erosion control monetary security that would be released upon approval of grading and turf establishment - turf won't likely be properly established until spring of 2009 at this point).
5. Verify ordinance and/or developer agreement requirements for paved driveway/parking area. It appears all driveway/ parking surfaces on the site plan are proposed as gravel.

***Motion by Member Volkmuth, second by Member Becker, to approve the site plan as presented with the engineer's comments being addressed.***

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

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

**FIRE DEPARTMENT** – Secretary Rick Hansen reported on the following:

**MUNICIPAL CONTRIBUTION FIRE RELIEF ASSOCIATION** – Rick reported the Fire Department requests council action to amend the Fire Relief Association municipal contribution. There was \$5,000.00 budgeted in the 2008 but the revised figure is \$7,521. The request is to transfer \$160 from Fire Department Operations designated fund E101-42200-540 and \$2361 from Fire Municipal Contribution designated funds E101-42200-127.

Rena Weber reported that the annual contribution is \$1500 which was adopted in 2007. The form used to determine the amount had numerous corrections and the fund also experienced shortages of interest due to the market.

**Motion by Mayor Herberg, second by Member Palmer, to approve the request to transfer the funds to cover the \$7521 contribution as presented.**

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

**ABSTAINING: Simon**

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

**800 MHz RADIO PURCHASE REQUEST** - The Fire, EMS & Maintenance Departments are seeking approval to purchase (11) 800MHz radios through the state contract. These radios were used at the Republican National Convention and are now being sold for \$1,975.00 each. The radios price if purchased new is \$4,000.00. The Maintenance Dept. would purchase 2 of the radios for there use when needed but would be at the Fire Dept. for their use, (Fund #E10143100540 and E101494905540). Emergency Management would purchase 2 radios. (Fund#E10142500540) The remaining seven radios would be purchased by the Fire Dept.(Fund #E10142200218-\$4,000.00 and \$9825.00 from designated funds.)

Rena Weber reported that the Fire Department currently has 9 hand held units.

NFPA RECOMMENDS:

1 FOR EVERY OFFICER

1 FOR EVERY OTHER FIRE FIGHTER

NIOSH RECOMMENDS:

1 FOR EVERY FIRE FIGHTER

**FIRE DEPARTMENT TALLY**

6 MOBILE UNITS (EVENTUALLY WOULD LIKE TO PURCHASE)
7 OFFICERS
18 FIRE FIGHTERS (9)
7
<u>9</u>
16
<u>9</u>
<b>7 = \$13,825 for the Fire Department with the total being \$21,725</b>

EMS Director Mike Hofmann clarified why the radios are needed. The Federal Government and the FCC have determined that the VHF radios throughout the U.S. will no longer be used by 2010. After 9/11 the FCC determined that the 800 MHz system would be used in general to communicate with all departments and other cities, the Sheriff's department, St. Cloud Hospital, Life Link just to mention a few. City Maintenance used to work on a 155 frequency – that too was taken away. This is something needed to communicate properly and safely. Case in point there was an accident recently on Highway 23 where Life Link had to be called in.

**Motion by Member Becker, second by Mayor Herberg, to approve the purchases of (11) 800 MHz radios from Granite Electronics as presented.**

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

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

**PUBLIC HEARING – ORDINANCE 2008-50 & 2008-51** – At 6:32 p.m. Mayor Herberg announced that he would open the Public Hearing to consider adoption of proposed ordinances 2008-50 (Shoreland) and 2008-51 (Stormwater Management). Rena Weber read the notice of public hearing and explained that the committee, Planning Commission and City Council met on three occasions to address the concerns of the citizens. It was also felt that using common sense and asking for a plan instead of a permit should ease some of the concerns of the council. The council should determine if they want to charge for the plan review or not. There is a \$25.00 Administration fee in place.

Dave Volkmuth - 25754 Lake Road, St. Cloud, asked who will police this whole thing. There is a bit of uneasiness, will Stearns County police or are we as a city doing it. Who is in charge of doing this? He knows very well that this information is not out. He called 5 or 6 people who did not know of this ordinance. It scares him that the Information is not getting out. Those things that are in place now – are they grandfathered in? Yes.

Member Volkmuth also asked about the policing of this and who is in charge. Rena Weber explained that Council members, the Planning Commission and staff will be checking this out and should report it to city hall. Residents will also call in and question permits.

Mayor Herberg indicated that we are not relying on Stearns County on this.

Member Becker reported that a notice was sent out to everybody on Pleasant Lake about the ordinance. Whether people chose to respond or not he can't say.

Rena Weber reported that proper notification was given as well as publication.

Duane Willenbring – 25123 County Road 139, stated that he was publically harassed on 7/24/08 by the city attorney. If the legal counsel appears tonight, please call for a point of order. He was tired of hearing me complain about costs and you are going to hear a lot of people complain about costs. He is a paid staff and he was out of order.

Member Volkmuth indicated that he heard some complaints about this too.

Question – It is a foregone conclusion that the vote is done already, but is wondering if \$25.00 administration fee will be the cost. Rena Weber stated that there is a \$25.00 fee.

Will the building inspector be checking this out and charging as well? The Building Inspector inspects for the Building Code, but will also note what is going on and report back.

Duane Willenbring stated again that it was morally and ethically wrong for the attorney to say such things and wanted the council to say something about this.

Mayor Herberg stated that for the record we are keeping a running total.

Jane DeAustin, representing the CMBA stated she had comments on both ordinances:  
Shoreland Ordinance

1 – Still concerned and would like clarification with nonconforming lots under Subd 5, #B and for those newly nonconforming lots and their ability or inability to increase footprint.

2 – Under Subd 12, #B, the design criteria for structures to determine where stairs, landings, et al are located on property appear overly restrictive.

3 – Under Subd 16, #A, strongly encourage city to consider an allowance for a view shed. This is where landowners would be encouraged to retain trees and instead trim them for their view of the water.

4 – Subd 16, #C, appreciate clarification on use of fertilizer and pesticides in all districts – including agriculture – under this ordinance. As I read it, this restriction would apply to agriculture.

5 – In addition, under Exhibit A, Lot Standards, would appreciate comments on the city's planning process and its intention to have new lots of 80,000 square foot minimum located next to existing city lots of probably 10,000 square foot minimum. This could affect placing of utilities, roads, pricing of the lots, and how property is annexed into the city. An example would be along the stream just north of the city limits.

In the Stormwater Ordinance:

1 – Appreciate addition of #H in Subd 2(b) to clarify permits that are exempted: electrical, plumbing, window replacement, residing, reroofing that does not increase impervious surface.

Also appreciate flowchart and 'triggers' of a Stormwater management plan on the city's website to clarify process. However, did notice that most cases will require a Certificate of Survey – about an additional \$1500 expense.

2 – Under Subd 3, B, 2, noticed that elements of any proposed Stormwater management practice or Stormwater management facilities...has been changed from five years to perpetuity. That

language differs from the state MPCA Stormwater permit, and would like more information on why that was changed.

Typically, in the development, these improvements are accepted by the city. Or, is this intended for homeowner improvements only?

3 – And then to help clarify the ordinance, more detail was added in a number of subdivisions, and raised more question and would appreciate clarification. Especially under Subd 9, #A, which went from 20 acres to 10 and added more restrictions if near special and impaired waters.

4 –Under Subd 12(b), lot coverage limits – standards. A sliding scale from 15% to 20% was added under #3 for property on the lakes, ex. Pleasant and Grand Lakes. The Minnesota statewide Shoreland percent is 25. In the documents that I have about this ordinance, have not seen sound, factual, scientific reasoning that would compel the city to pass a more restrictive percentage than that of the rest of the state. She is asking the city to consider exploring alternatives for the entire land area affected by this ordinance. Is there a better way to accomplish more?

Again, she appreciates the opportunity for input and asks that the council reconsider these items, specifically; the impervious limit and urge you to adopt the statewide Shoreland coverage of 25%.

Duane Willenbring – 25123 County Road 139, also voiced concern regarding lot coverage under Subd 12 (b) and the maximum coverage on general or recreational development lake except that lots of record may contain up to 20% impervious surface, without a variance, *if the parcel provides a plan to the City that treats surface water runoff for water quality, as provided in 13 (b)*. Is that something that changed from the earlier one? Yes. Can we assume then that any existing lot of record can have up to 20% impervious surface without a variance. Yes.

Ken Peka – Brooklyn Park, and has a cabin on Grand Lake and some day this will need to be torn down. When we put the sewer in a verbal promise was made the septic problem goes away and we will be able to replace our cabins. That seems to be in jeopardy. I have not been able to make the meetings, but have been following the web-site. He is concerned that he can't rebuild and that the 20% limit is too strong. In Lake Minnetonka they tried something similar and it was shot down. He is concerned about existing properties and understands that at one of the meetings it was said that people can replace their existing cabins and use as much impervious surface as they are using now.

Rena Weber reported that it is a state law that people can build in the same footprint as they currently have.

Mr. Peka asked if they were to rebuild and use part of the impervious surface for building that would be okay. Rena Weber indicated that we will look at each individual request to determine if it works.

Mr. Peka asked if he would have to purchase the lot next to him in order to become a conforming lot so that he can build. No he would not.

Member Palmer pointed out that the current state statute allows for re-building in the same footprint, but there are no guarantees that this will stay the same.

Mayor Herberg pointed out that a non-conforming use in existence as of date the ordinance passes shall be allowed to remain a non-conforming use.

Mr. Peka would like to go on record as being in favor of keeping the 25% impervious surface allowance.

Michael O Keefe – 21335 Agate Beach Road, is seeking clarification on the (*Shoreland Ordinance*) Section 2 Subd 16 (d) it states that vegetation within the shore impact zone must be maintained to screen structures with trees and shrubs, to the extent possible. Counting that there is a shoreline recreation area that is 30' that would say that for an existing 100' lot that has a lawn and is open to the lake this would seem that the homeowner would need to basically provide

vegetation to shield that structure unless it comes under the non-conforming use and that continues.

Another question he had concerned Subd 17 3 and Appendix B where on a General Development Lake residential recreation area may only be 30' wide by 15' deep. The ordinance says "the entire area must be landscaped, maintained, and constructed, to the extent possible, so that no bare soil or other ground subject to erosion exists." What does this do to a beach front? Every beach front on the lake has some slope and is sand is notorious to be erodible. This would seem to require vegetation and then the elimination of beach fronts in the shoreline area. We have talked to staff and they have clarified that is not the intent, however, he is having trouble with the wording does seem to say that. He asked for clarification to read that the sum total of these provisions does not in effect eliminate beaches on Grand Lake.

Dave Volkmuth –25754 Lake Road, stated he watched the last public hearing and so many people wanted to keep the 25%. I think you compromised back from 15% to 20%. We are getting a little more restrictive than we need to be. Just in general he urged the council to bring it up to 25%. Make it more livable, more attractive so that people still have a place to go on their land. He would still like to see it kept at 25%.

Scott Palmer – 21108 Fowler Road, stated that part of the issue we are dealing with tonight was created back before Shoreland Ordinance came into existence. A lot of people don't realize that there were no shoreline ordinances in the 1960's so state government recognized that lakes were starting to degrade and decided to do something about it. A typical building project was to build as close to the lake as possible without the ice forcing you back. As a result on Grand Lake we have several non-conforming lots where homes are built within 35 of the water's edge and accessory structures built right next to the water. So as a result we have some bad conditions in our waters within the City of Rockville. This Shoreland ordinance is meant to correct some of the things that were done wrong by our building practices. It doesn't take rocket scientist to find evidence out there on studies of how this affects the lake. Just go in the DNR web-site and type in impervious surface.

Scott Palmer presented pictures he took from just this morning of Grand Lake. They have curly leaf pond weed. The Shoreland Committee has worked hard for 2 years to draft these recommendations to correct the problems. He urged people to on the DNR web page to see they do not support 25%. The committee did take the feedback from the last public hearing and changed the ordinance to reflect the 15 to 20%. We are trying to make some corrections now we need help to improve.

Member Volkmuth asked Scott Palmer if someone has 50' of sandy beach is it the intent of the committee to have people put in vegetation and shrink this down to 30'. Scott Palmer indicated that no it is not the intent and what people have now they can keep. He and Sue are as part of the shoreline restoration project going to voluntarily shrink down their beach to 30' and they signed a contract since they will receive a matching grant.

Member Volkmuth stated that this is not very well spelled out. Nowhere does it say you are grandfathered in would like to have more pinned down. What he hears from Rena is that we use common sense, but if she leaves then who will carry on with this thought.

Member Palmer indicated that if you do nothing to increase the impervious surface, this will not kick in.

Member Becker agreed with this – Stormwater Ordinance page 13 – Subd 13 b (B) covers this.

***Motion by Member Palmer, second by Member Ahles, to close the public hearing at 7:12 p.m.***

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

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

Member Becker indicated that at the last public hearing we had 13 individuals who came up and commented on the ordinance. 10 of 13 were concerned about impervious surface and when any remodeling would kick in the ordinance. The Committee reviewed these concerns:

- They extended the 12% and went up to 20% maximum impervious surface without a variance
- State being 25% – we can be better than that
- Studies are out there that indicate 8% to 12% will cause deterioration
- The group went to 20%
- Two hot items were addressed
- He talked to 10 people and reminded them of the public hearing. They are not here tonight
- He would like to clear up the beach provision and the sand area specifically under Subd 17 (3) that was questioned by Mr. O’Keefe

Mayor Herberg questioned if Subd 16 (B) clarifies this. It was determined that we need to add the word sand.

Member Volkmuth indicated that Subd 16 (A) 1 – 8 lists the exceptions. He questions if people can still mow the 50’ in the shore impact zone. It seems that we want to turn this back into the native grasses. This needs to be clarified. If people have something it should be grandfathered in and stated in the ordinance.

Member Palmer wanted to add that again this is pursuant to state statute.

Scott Hedlund pointed out the Subd 16 (A) says if you have good vegetation/trees we are saying we want you to keep it.

Member Palmer asked about having a view area and we did not allow for trimming trees. Scott Hedlund stated he would have to look at the ordinance on this.

Member Volkmuth voiced concern on how we would even police this.

Member Palmer felt that it is that we will allow you to trim your tree, just don’t cut it down.

Member Volkmuth voiced concern regarding (*Shoreland Ordinance*) Subd 16 (C) use of fertilizer and pesticides shall not be allowed in the shore impact zone. Is that the first 50’? Yes People are worried about keeping their property rights.

Member Simon stated that he is okay with the Shoreland Ordinance, but he totally disagrees with Stormwater Ordinance:

- Who is going to police this?
- What is the cost?
- Does this require a certificate of the engineer?
- How you interpret an ordinance may be different than someone else.
- What can be beach and what can be left? It does not state previous use is grandfathered in.

Member Volkmuth suggested that a test period of one or two years be done. If it is not working then it has to be looked at in a year. 1000’ from the lake is a long way. There is good stuff that can happen too.

Member Simon again voiced concern about the storm water ordinance and rain gardens, people need information on costs, and rain barrels are starting at \$50. He questioned “Walkway where viewed” (*Shoreland Ordinance*) Stairway – Subd 12 (B) – this was changed and added whenever practical.

***Member Palmer introduced the following ordinance and moved for its adoption:  
ORDINANCE NO. 2008-50***

***AN ORDINANCE AMENDING THE CITY ZONING CODE AS IT APPLIES TO  
SHORELAND PROPERTY***

***(A complete copy of the ordinance as amended is hereby attached and marked Exhibit A). Specific amendments include: Adding the words “Natural Sand Beach” to***

**Subd. 16 B, Referencing succeeding State Statute where appropriate and clarifying the "Grandfathering" clause.**

**The motion was duly seconded by Member Becker with the following vote being taken:**

**AYES: Ahles, Becker, Herberg & Palmer**

**NAYS: Simon & Volkmuth**

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

Member Volkmuth questioned the need for a certificate of survey. Mayor Herberg reported this is discretionary. Scott Hedlund reported that this is required mostly in Shoreland area and is being done now.

Member Simon asked if a change to a feedlot requires a Stormwater plan. Rena Weber reported that feedlots are handled by Stearns County as it is state law.

**Member Becker introduced the following ordinance and moved for its adoption:**

**ORDINANCE NO. 2008-51**

**AN ORDINANCE AMENDING THE CITY ZONING CODE BY ADDING A SECTION ON STORMWATER MANAGEMENT**

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

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

**AYES: Ahles, Becker, Herberg & Palmer**

**NAYS: Simon & Volkmuth**

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

Duane Willenbring –25123 County Road 139 called for point of order and division. Mr. Willenbring brought to the attention of the council Section 4 of the Shoreland Ordinance and Section 3 of the Stormwater Management Ordinance "Upon approval by six members of the City Council the following shall be the summary of this Ordinance, and may be published in place of the full text of this Ordinance. Counsel to review this.

*(It was learned at a later date a motion approving a summary ordinance would need separate approval or the whole ordinance would have to be published).*

**BOARD/STAFF REPORT**

**MARY OF IMMACULATE CHURCH – SITE PLAN** – Rena Weber and Vern Ahles presented information on the Church site plan.

RE: SITE PLAN APPROVAL

76.42240.025 Owners: Mary of Immaculate Conception Church

Property Address: 103 Broadway Street West

REQUEST

Approval to add meeting area (52' x 40') to the front of the structure and install an elevator

RELEVANT INFORMATION

1. Property is zoned B1.
2. Property is mostly impervious at present, but there is no specific requirement at this time.
3. Property is located within 300' of the Mill Creek and Sauk River.

RECOMMENDATION

1. City engineer recommends that since most of the property is impervious:
  - No mow in Ditch between the parish house and church or
  - Create a buffer in this same area or
  - Rain Garden in the SW corner
2. With any construction project that disturbs vegetation proper erosion prevention and sediment control BMP's should be implemented during and after construction (i.e. place silt fence

and/or bio-rolls on down gradient sides of disturbed areas and stockpiles, and re-seed/sod all disturbed areas as soon as possible.)

Member Ahles reported that the Planning Commission recommended approval of this site plan without the engineer's recommendations. There was concern about the front of the building being too close to the road.

Ed Karls reported that the building would be 18'4" plus 1'6" from the roadway. Member Ahles indicated the church would not be any closer to the road than some other businesses in the city.

Rena Weber added that the addition to the structure would not create more seating and the parking lot holds 78 parking spots.

Discussion was held regarding the engineer's recommendation to provide some sort of buffer or vegetation to filter the rain water.

Member Volkmuth questioned the ordinance just passed and giving preferential lot coverage to the Church. Member Volkmuth prefaced this to say that he is in favor of the addition.

Mayor Herberg indicated that this request has been in the application process for some time.

Ed Karls reported that it is unclear whether or not the church actually owns the ditch to the west of the Church.

***Motion by Member Volkmuth, second by Mayor Herberg, to approve the site plan as presented without the engineer's recommendation for the buffer area.***

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

***NAYS: Palmer***

Member Palmer indicated she would be opposed only because she would like to see they add something. Member Palmer asked if the Church would be okay with adding some vegetation to the creek bed.

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

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

REQUEST FOR ACTION – The Maintenance Department requests council action to transfer \$1500 from designated fund E101-43100-337 to fund E101-43100-320 to cover the cost of the 2<sup>nd</sup> ditch mowing.

***Motion by Member Volkmuth, second by Mayor Herberg, to approve the site plan as presented without the engineer's recommendation for the buffer area.***

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

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

#### **ENGINEER REPORT**

**COUNTY ROAD 82 (WEST)** – Scott Hedlund requested council approval of Kuechle Underground final payment of the water/sewer to SJ Louis site. The punch list things have been completed and he recommended approval of final payment and Change Order 1 in the amount of \$1128.34. The change order is for the auditors and brings the original bid contract amount per the bid items.

***Motion by Member Volkmuth, second by Mayor Herberg, to approve the final payment of \$5,000 retainage to Kuechle Underground and Change Order #1 in the amount of \$1128.34.***

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

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

#### **COMMITTEE REPORTS**

**MAYOR'S REPORT** – Mayor Herberg reported that he and the Administrator did attend the LMC LGA summit forum in Brainerd and it was encouraging for us as it should be substantial benefit if the changes occur as discussed. Some of the ideas for reform are:

- Recognition of merger and consolidation efforts
- # physical size of the city – lane miles of streets
- Include factors that reflect residents' needs and ability to pay (age & income)
- Average age of infrastructure (city owned)

**PERSONNEL COMMITTEE**– Chair Volkmuth reported that we interviewed 3 people and the committee wishes to interview 3 more. Additional interviews will be held 9/23/08.

**STREET COMMITTEE** – Chair Simon reported the Committee discussed the Crane Pump proposal and decided to hold on paying Crane pump hold off until we get the issue of alarm system tripping out resolved.

Chair Simon also that Stearns County Highway Engineer Mitch Anderson was not at the meeting to discuss County Road 138 turn back. The Committee is waiting for a new drawing. A culvert on Glacier Road needs to be replaced and Rick is getting costs.

#### **ADMINISTRATOR'S REPORT**

Administrator/Clerk Rena Weber reported on the following:

- League of Women Voters will host a candidates forum on 10/23/08 at Rockville City Hall
- Fall Regional LMC Meeting are coming up and the nearest is 10/23 in Dassel

#### **OPEN FORUM**

Bonnie Ring –316 Broadway Street East – stated that she is running for a council seat and voiced concern that city staff is proposing to print information in the city newsletter. She feels it is unethical for the city to do. Staff should not be campaigning for us.

Mayor Herberg felt it was a good gesture and is going out to every household.

Jeff Hagen – 21614 County Road 8 – voiced the following concerns:

- In 2007 council asked all staff to cut their budget by 10% and let the council know what that would be (less hours, less staff, whatever).
- Not one person followed that request. Most places he has worked at he would have been shown the door. The council ended passing a budget with no increase.
- In 2008 there were several unplanned expenses for labor, consulting, legal, and engineering fees that will likely total \$100,000 when done.
- When asked where that money was coming from he was told the general account like that is some sort of slush fund that didn't have to be accounted for in the budget. That makes no sense. That is roughly 10% of the budget. The budget could not be cut but additional unplanned expense is being incurred.
- Last meeting you approved a budget at roughly a 4% increase constrained by the State of MN. You stated that you like to have seen an increase of 8% with little or nothing for roads.
- You are stealing from the resident's road maintenance fund to meet the budget.
- Now you want to have a referendum vote of the residents on whether or not they want to pay additional taxes to have their roads maintained, repaired or replaced as needed.
- When the buildings were being considered he tried to get the Mayor and Council at that time a chance to let the people vote on how much to spend on these buildings and to remember how much to fund for fixing the roads. In a way I think you are going to let the people vote on those building costs.
- First I don't think you can use this referendum to exceed the maximum imposed by the state.
- Look at the irony of what you are doing:

You have a good portion of residents that want out of the city and yet you are spending a good amount of money fighting that. You have a large number of other residents that want to follow. The order of complaints are:

1. Expenditures on the City Hall
  2. Expenditures on the Fire Hall
  3. Staffing, legal & engineer, etc
- For example is the unnecessary spending is the GIS Data View. They have asked for this I think every year that I was on the council and fortunately that has been denied and

they have operated just fine with out it. Now in the worst possible financial conditions it is approved.

- Again look at the message you are sending the tax payers.
- You are facing large assessment deficits in the coming years and running deficits without taking care of the roads. But worst of all you are the desecrating the trust of the taxpayers of the in the way you are managing the city.
- He urged the council to take another hard look at what you are spending and where you are spending it at.
- In this meeting I have a question regarding 800 MHz purchase.
- In the old system did every fireman or maintenance person have a radio? Rick Hansen reported that at that time the Fire Department cam in a requested one portable for all the officers. They had a mobile unit in every truck and enough radios with 6 or 7 spares and the Maintenance Department had one.
- So the answer is no, but our goal now is that everybody have their own radio. Rick Hansen indicated that no we are not trying to have every fire fighter with a radio.
- Relative to a comment as to how this is being paid for as many of you know I owned the former Grand View Resort and it would probably cost \$2,000,000 to replace it. I would be willing to sell the Grand View to the city for a million and consider the other million a grant.

Duane Willenbring –25123 County Road 139, asked if the council was opening Pandora’s box, assuming we find a loop hole and the two ordinances have passed and then the assumptions occur. Then the timing issue approving the site plan of the church is questioned. If the ordinance is in effect at this magical moment and we start to initiate the process at the time of the approval, and believe him he is in favor of the approval. Are we not deviating from the ordinance?

Mayor Herberg reported that process was started before the ordinance was approved.

Duane Willenbring questioned if the building permit triggers the ordinance.

*It was determined that staff would review the ordinance once again with the attorney.*

Jeff Hagen – 21614 County Road 8 - questioned the certificate of survey “may be” required. Does not the ordinance call for a certificate of survey in the Shoreland Overlay District? Again, he is all for the Church expanding, but does not think the map looked like a certificate of survey. Fair treatment, objective treatment should be given to everyone that comes to the city.

Scott Hedlund reported that the ordinance states a certificate of survey may be required.

Tudie Hermanutz – 211 1<sup>st</sup> St West, hopes that everybody looked at the creek & river too. People live within 1000’ (300’) of the river. There are a lot of people affected by this.

She also agreed with Bonnie Ring on the use of city newsletter for campaigning. We would not take Al Franken’s information and put it in the newsletter.

***Motion by Member Volkmuth, second by Mayor Herberg, to nix the idea of putting candidate information in the city newsletter.***

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

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

Don Simon reported there will be another public hearing next Tuesday (9/23/08) on the county park.

***ADJOURNMENT – Motion by Member Volkmuth, second by Member Becker, to adjourn the meeting at 8:14 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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