

**MINUTES OF A SPECIAL CITY COUNCIL MEETING HELD WEDNESDAY,  
FEBRUARY 22, 2006 – 7:07 P.M. – JOHN CLARK ELEMENTARY SCHOOL**

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, Jeff Hagen, Don Simon & Greg Simones. Absent: Ed Karls & Lloyd Lommel.

Staff members present were: Administrator/Clerk Rena Weber, Attorney Jim Mogen, and MDG consultant Cynthia Smith-Strack.

Planning Commission members present were: Jerry Bechtold, Linda Peck & Jerry Tippelt.

Others present were: Susan & Scott Palmer, Bruce Conrad, Duane Willenbring, Bill Becker, Jennifer Herberg, John Weismann, Jim Meinz, Joe Bloch, Pat Sell, Dave Curtis, Paul Wirth & George Bechtold.

Mayor Herberg announced that the public hearing would be held to consider adoption of proposed Ordinance No. 2006-30.

Attorney Jim Mogen was present to review the proposed sign ordinance amendment – Section 12. Jim Mogen stated that changes were extensive and to make sure it would be defensible he proposed deleting the present ordinance completely replacing it with a completely new ordinance. Attorney Mogen reviewed the Subdivision:

**Subdivisions 1 – 4 Findings, Purpose & Intent, Effect & Severability** – These are mostly administrative and lay out the background of why the ordinance was passed. Plaintiffs will challenge the current ordinance and then the complete ordinance could be thrown out. With the severability clause only the contested portion is removed.

**Subdivision 5 – Definitions** – These would overrule any other portion of the ordinance.

**Subdivision 6 – Permit Required** - Sets out when a permit is required. It also limits what the Administrator can require. Action on a permit request must be taken within 60 days.

**Subdivision 7 - Fees** – This refers to the fee schedule.

**Subdivision 8 – Exemptions** - This covers what doesn't need a permit. Discussion was held regarding banner signs tied to buildings and flags over 40' in height including the pole.

**Subdivision 9 – Temporary or portable signs** – These require a permit, but it is a less onerous application.

Member Hagen questioned the temporary Pearl Lake fish fry sign on Highway 23 and County Road 8. This would not be allowed.

**Subdivision 10 - General Requirements** – This covers extension from buildings, height & electronic variable messages.

**Subdivision 11 - Construction Standards** – This applies to all signs.

**Subdivision 12 - Unauthorized Signs** – This refers to off-premise signs (billboards).

Signs on rocks – it is okay to put on the rocks where it is part of the rock.

**Subdivision 13 - Canopies, Marquees & Fixed Awning** – This allows the downtown area room for awnings

**Subdivisions 14 -18** – Specific regulations by zoning district.

**Subdivision 19 Master Sign Plan Required** – This is to be included in any non-residential development plan.

**Subdivisions 20 to 23 – Non-Conforming Signs, Violations, Non-Commercial Speech, & Substitution Clause** - These are mostly administrative issues.

Attorney Mogen indicated that Rockville would be extremely vulnerable in defending the present ordinance.

Bruce Conrad – 11381 Hubert Lane and representing the Rockville Business Association, voiced concern regarding Page 18 – B-2 stating that in the past you could have a sign up to 250 square feet and now we are cutting it to 150 square feet. We need to clarify the 250 square feet.

Freedom Auto was a conditional use in an industrial park and they have a very large business sign. His concern is that nobody can see his 4' x 8' sign on his property on the opposite side of CR 140.

Temporary sign section – Regarding the no off-premise sign requirements, does that not mean the Rock Fest cannot advertise. It was reported that the City is granted approval since it is a government sign. It was further reported that the property owner cannot get a sign for a church supper, scout pancake breakfast, etc.

Attorney Mogen stated that there is no such thing as precedent in the city council or administrator's action. They are not required to prosecute every law on the books.

Bruce Conrad indicated that you can permit variances in the future where each property is treated individually on its own merit.

Duane Willenbring - 25139 County Road 139, questioned non-commercial signs being exempt and does that include real estate signs.

Jim Mogen indicated that there is an exempted preference for political signs and also the real estate signs. Jim Mogen indicated that a variance is always the escape.

Member Simones questioned Page 7 and that pennant is not defined. Development is not defined either. We refer to one sign per development page 19 sub 18 one free standing sign per development

Mayor Herberg understands where the need for a sign ordinance is coming from, but the governing factor is where we impose these things on citizens.

**ORDINANCE AMENDMENTS** – Cynthia Smith Strack indicated that the basis for the amendment is due to the implementation section of the comp plan. The City of Rockville Planning Commission has been working on updates to the Rockville Zoning Ordinance resulting from recommendations included in the December 2004 Comprehensive Plan Update.

The Zoning Ordinance updates apply to the following sections of the existing ordinance:

1. Section 20: B-1 Central Business District.
  - Purpose: create walk able development reminiscent of traditional downtowns.
  - Provide areas appropriate for pedestrian oriented uses such as retail, office, professional services, single and multiple family and mixed commercial/residential uses.
  - Intended for transitional areas between uses of varying intensities, within the original Townsite near the Broadway Street corridor and adjacent to intersections of collector/arterial streets in predominantly residential zones.
  - Permitted, accessory and conditional uses along with lot requirements within this zoning classification are proposed for amendment.
2. Section 21: B-2 General Business District.
  - Purpose: differentiate between downtown and general business development.
  - Provide areas for concentrated general business and commercial activities dependent upon high volumes of vehicular traffic.
  - Permitted, accessory and conditional uses along with lot requirements within this zoning classification are proposed for amendment.
3. Section 11: Off-Street Parking.
  - Purpose: Help prevent traffic congestion by establishing minimum requirements for off-street parking.
  - Propose adding references to the purpose, intent and scope of the parking requirements. Continue permit requirement for all parking and driveway facilities but add exception for all driveways that are part of a residential subdivision with an approved grading plan in effect. Further define required dimensions of parking stalls depending on orientation from the curb. Require curb cut setback from streets and property lines and identify curb cut width standards.

4. Proposed New Section: Landscaping.
  - Purpose: Provide screening/landscaping primarily to improve the physical appearance of the community and buffering from uncomplimentary land uses.
  - Landscaping standards apply to development within all multiple family, commercial and industrial Districts and residential lots to which urban utility service (either/both sanitary sewer, drinking water) are available.
5. Section 12: Signs. The City Attorney, James Mogen to address this issue.
6. Proposed New Section: Site Plan.
  - Purpose: consolidate information contained in several other sections, establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards.
  - As in the past, all principal structures or other buildings exceeding 200 square feet must submit a site plan for review but amendment proposed to exempt single/two family residential units on lots within approved subdivisions if they adhere to elevations and building sites as identified in the approved grading plan.
  - In R-1, R-2 or Ag districts, building official reviews site plan with option to refer to others. In R-3(MF) zoning administrator reviews with option to refer. In commercial/industrial zoning administrator and planning chair review with option to refer.
7. Section 9: General Provisions.
  - This section includes a variety of standards relating to several issues. Amendments proposed relate to certain sections of the standards pertaining to: accessory buildings, outdoor storage and connection to public water/sewer. Language proposed relating to lighting (intent to minimize adverse affects of light trespass) and protection of public easements from encroachment. Amendment formalizes approval of County standards currently utilized by adopting by reference county standards pertaining to Shoreland, floodplains, feedlots and independent sewage treatment systems.
8. Proposed New Section: Environmental Preservation.
  - This is a proposed new section designed to implement the statements in the Comprehensive Plan and respond to public input relating to a stated desire to protect and promote 'rural character', 'small town environment', view sheds adjacent to major transportation corridors and significant/sensitive natural resource areas.
  - The general standards contained in this proposed Section are to be met by developers proposing: the subdivision of property, the construction of a multiple family dwelling unit(s), the construction of a commercial facility or the construction of an industrial facility.
  - A 'resource management plan' required under this Section is to be submitted with either the preliminary plat or the site plan. The applicant bears the burden of ensuring that resource management plan is developed.
  - Projects involving ten acres or more require Council approval; projects involving ten acres or less are able to be approved administratively. Review of individual requests and application of the ordinance would likely be a function of Stearns County Environmental Services similar to the fashion in which developments impacting wetlands/shorelands are currently processed.
9. Proposed New Section: Manufactured Home Parks.

- This is a proposed new section. It is proposed at this time because MN Statutes require cities to allow manufactured home parks in any zoning classes that provide for two or more family dwelling units. At the present time the City doesn't regulate manufactured home parks or allow their existence.
- The proposed language addresses the issue and provides for quality manufactured home park developments providing they meet standards including, but not limited to: application processing, requirements relating to the entire manufactured home park, requirements relating to individual lots within the park, parking, park land and manufactured home park maintenance.

10. Section 24 – SP-1 Special Protection District.

- This section is proposed for amendment to allow public parks and public park facilities as permitted uses within this overlay class.
- The Planning Commission also reviewed the annual numerical limitation on conditional use permits. The Planning Commission recommends leaving the reference, the City Attorney concurs, MDG, Inc. suggests removing the standard. MDG recommends deletion of the 4 per year.

Mayor Herberg questioned the manufactured home park section citing that there are several farm sites in the city that have mobile homes on them now. Cynthia Smith-Strack indicated that is fine, but when there is a subdivision of lots upon which several homes are placed is when this would come into play. The current ordinance allows for two.

Mayor Herberg indicated that one farm site has 3 mobile homes and a house. Cynthia Smith-Strack stated that they are existing non-conforming uses and cautioned that the council when setting policy should look at the facts and decide what legislation you want to pass. The general requirement section adds adoption of certain sections of the Stearns County Ordinance by reference.

Member Simones questioned landscaping standards requiring the planting of 2 trees for every 1000' of impervious surface or fraction thereof. 1500 square feet would need 4 trees.

Mayor Herberg voiced concern regarding the environmental preservation section. He has a concern of cost for a natural resource inventory (\$40,000 spent by St. Cloud and Sartell cost is \$30,000). St. Cloud indicated that this streamlines the process for developers. Mayor Herberg thinks the SP- 1 is doing the job and would like to see this taken off the books. He has received comments from the public that this may be pulling the wool over the eyes. This proposal came through the Planning Commission, but is not entirely supported by them.

Member Simones thinks this could be enforceable once a property is identified. The developer would do the inventory and then we don't have to inventory the whole city. Further, we would have the information on the piece of property being developed. Without this where do you have the framework to work with? We should doctor the ordinance so that it affects development only.

Member Hagen questioned the feeling of the Planning Commission.

Jerry Bechtold reported the Planning Commission voted not to take any action and wanted public comments. They voted 5 to 2 with 1 abstention to not take any action on this section. They voted 7 to 0 on the remaining amendments.

Susan Palmer – 21108 Fowler Road, asked the council to put this ordinance in place. St. Cloud has the ordinance and Sartell is considering it. Rockville does not have an ordinance so developers can look at this and say let's go there and develop. If thinking long term now would be the time to have the ordinance in place. Think about what we want our city to look like. We contract for services with Stearns County and they can identify the environmentally sensitive areas. Susan suggested we have somebody from St. Cloud speak to the council on how this does or does not work for them.

Member Simon stated that we have certain areas designated for development and he suggested that we just do those segments that are zoned for development and transitional. We would not have to do the whole city.

Bill Becker – 25844 Lake Road, indicated that he seconds what Sue Palmer said. He questioned the landscaping area and how it deals with junk yard or auto storage. Rena Weber reported that this is covered under the present nuisance ordinance.

Bruce Conrad – 11281 Hubert Lane, questioned Page 44 and the 350' distance from a main water/sewer pipe. What is considered a reasonable cost to require mandatory hook up to the pipe. He received a cost estimate of \$94,000 to push water/sewer under County Road 140 and feels the cost is prohibitive.

B-1 – Bruce indicated that he is out of touch on what the city is doing for revitalization. Bruce urged the city to find a way to give off-street parking credits. Maybe the business owners could use the city hall parking lot and the city could give them a credit.

B2 – Bruce indicated that this clarifies what the city will let happen in each district. The whole of this gives anybody a sense of what direction the city is going in. Rockville is finally open for business.

He is not familiar with accessory structures, bonds, or site plans. If we kill a company on this stuff then we are shoving things down their throat. How much cost do the other things have.

John Weismann – White Bear Lake, stated he appreciates Sue Palmer's comments. He cannot imagine that by not having the environmental studies that it would speed up the process for developers.

Sue Palmer – 21108 Fowler Road, questioned if by adopting by the Stearns County Shoreland ordinance by reference what does this do to the moratorium.

Jim Mogen stated that technically the Council has to remove the moratorium. The sub-committee can study the alternative ordinance Vs the Stearns County ordinance and later adopt a final ordinance of its own.

Jim Mainz – 22093 Agate Beach Road, questioned the cost of doing some kind of inventory and asked if you have to inventory all of the area. Mr. Mainz indicated that the council spent a lot of time on signs and yet they are leaving it wide open on the environmental issue.

Discussion was held regarding the requirement for a resource management plan when 350 cubic yards of land is disturbed. Mayor Herberg stated that this can happen easily even when digging a hole for a basement.

Linda Peck – 12299 Sauk River Road, stated that the environmental ordinance looks complex, but she highly encourages the council to look very seriously at adopting this. There are 36 square miles of land and Rockville needs to catch up with adjacent communities. The ordinance is as complicated as it is detailed. We need to even the field so that when anybody goes in to develop their property this is not foreign to them. This provides a better footing to keep control on how we want the city to look.

In regards to the Environmental Protection section there is no cost to do this. Stearns County has information that is more than wetlands and Shorelands. There are various wooded areas, and savannahs, people walk there, and hunt there. MDG did not put the major responsibility on the city, but first on the developer. This is a burden on them and they have to provide this. If we don't have this in place the developer will go to easy street – Rockville. Grand Lake & Pleasant Lake residents were upset because there has been a drastic change in their view. Stearns County provides a service to the city and they would be able to provide a service on GIS maps which can put woodlands on it. She urged the council to go forward, we can tweak it in the future, and not to be overwhelmed by it.

Duane Willenbring – 25139 County Road 139 questioned site plan and landscaping requirements. Duane indicated that he is a developer and carpenter and wanted to know where

our children are going to live. If we keep adding layer upon layer of regulations it will be cost prohibitive. He urged the council to not go forward with adoption of the ordinance and further suggested the council continue to have more input from more people. Duane questioned the following areas:

- Do we really need to maintain a 50' buffer between environmental areas and standard wetlands?
- Tree removal for principal development – Under this scenario the city could not have built a city hall or fire hall.
- Subdivision 4 (A) 2 Acceptance of donation of the environmentally significant/sensitive area in lieu of park dedication and or fee or a portion thereof. Duane referred to Bill Molitor's request of the Planning Commission at the previous night's meeting.

Member Simon voiced concern regarding large trees in every development stating that you can't save every tree. There is a 40 acre plat for sale in the northern area and this requirement would make it harder for them to sell their property. This will significantly cost people more money to build or develop. This will create a lot of paperwork and work for staff and the homeowner.

Mayor Herberg indicated that he gets calls all the time from people in the SP-1 District asking how the SP-1 District got passed. Mayor Herberg stated he is going to keep a log of phone numbers and give it to the Council and Planning Commission.

Linda Peck -12299 Sauk River Road, urged the council to get Matt Glassman from St. Cloud to talk about the Environmental Protection ordinance. Streamlining does not mean the developer comes in and takes over, the flowchart is very clear. Rick Packer spoke in Sartell in favor of this ordinance stating this was a guideline for him. Linda Peck stated the Natural Resource Inventory for Rockville is available from Stearns County so we don't have to complete this portion only the evaluation.

Sue Palmer – 21108 Fowler Road, reported that information is available on the Stearns County web-site. She referred to when they built their house and the providing information is part of the process. They were required to plant some trees.

Member Simones stated that maybe we should have some other city to talk to us, or the county. How is it working in St. Cloud? Member Simones indicated that he recommends we don't adopt this tonight and we may need to massage it.

Member Hagen urged the council to adopt the ordinance tonight and massage it down the road. We could have it in place and see what happens.

Member Simones indicated we could amend the ordinance later if it is contentious. It will be way more chaotic if we don't have this in place.

Cynthia Smith-Strack replied to the following concerns:

- a) Discussion on Environmental Preservation section – A natural resource inventory is being mapped and we don't need as great of detail as St. Cloud or Sartell. Cynthia urged the council to look at the maps in the comp plan and identify them on a development or plan. Maps of contours, soils, etc, contain information pertaining to the development and are enclosed. The proposed ordinance is not a one size fits all. The council should make a baseline decision and decide do you want to look at these types of guidelines.
- b) Signs – 150' or 250' needs to be addressed. Jim Mogen stated this was intended to be a catch all. If everything else fell apart there would not be billboards.
- c) Connection to water and sewer – There is nothing defined as to what is economically or physically possible. This is being deleted.

- d) Parking in B-1 – The ordinance is proposing to allow joint parking facilities. The council may consider an option for a fee in lieu of providing parking.

Duane Willenbring – 25139 County Road 139 had questions on the landscape section:

- Subdivision 4 General Requirements #6 (page 30) - June 1 in MN is a tough thing to meet and this should be changed.
- Subdivision 5 (A) 2 - requires that two trees shall be required per 1000 square feet of impervious lot area. Assuming that this is for residential his latest lot would have required 8 trees @ 3,091 square feet. At the cost of a tree this is an astronomical amount. If we require this he will put in the cheapest trees he can find. Grass was not required before and Mr. Willenbring asked if this is what we really want?  
Linda Peck stated that there are incentives provided in the environmental preservation ordinance.
- Site plan Subdivision A (5) c regarding loss of 10% or more of significant trees of any land - Is this truly the intent?
- Site plan Subdivision A (8) -Fences, retaining walls and berms higher than 2 feet require a site plan. Do we really need this?
- Site plan Subdivision 11 – Site plan required for an addition of a bedroom. He can change the name to anything but a bedroom. It was determined that we should take out the word “bedroom” and stated a site plan is needed when you do any addition.
- Site Plan Subdivision 22 – Setbacks from wetlands – 40’ or 20’ is being changed from 10 feet or 20 feet. Linda Peck wished to see a 50’ setback. It was determined that we need to clarify what the wetland ordinance is.

***Motion by Member Simones, second by Member Ahles, to close the public hearing at 10:26 p.m.***

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Simon & Simones***

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

Member Hagen stated that he was inclined to pass the ordinance tonight and make minor changes at a later date. He also does not think we are going to get any more public input.

Member Ahles stated that he would like input from other cities and developers.

Member Hagen stated that the bottom line is that people are not going to tell us it is not important to them.

***Mayor Herberg introduced the following ordinance and moved for its adoption:***

***ORDINANCE NO. 2006-31***

***AN ORDINANCE AMENDING SECTION 24 OF THE ZONING ORDINANCE REGARDING THE SP-1 SPECIAL PROTECTION DISTRICT***

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

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

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Simon & Simones***

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

***Member Simon introduced the following resolution and moved for its adoption:***

***RESOLUTION NO. 2006-07***

***A RESOLUTION AUTHORIZING SUMMARY PUBLICATION OF ORDINANCE NO. 2006-31, AN ORDINANCE AMENDING SECTION 24 OF THE CITY ZONING ORDINANCE RELATING TO THE SP-1 SPECIAL PROTECTION DISTRICT***

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

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

***AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Simon & Simones***

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

***Motion by Member Simones, second by Mayor Herberg, to table action on Section 12 – Sign Ordinance until changes are made as discussed and reconsidered at the 3/1/06 council meeting. Further the council should consider action of lifting the moratorium once this is approved.***

**AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Simon & Simones**

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

***Motion by Mayor Herberg, second by Member Ahles, to re-schedule the public hearing for Ordinance No. 2006-30 to 3/9/06 – 7:00 p.m. at which time more information from Stearns County natural resource inventory is available.***

**AYES: Ahles, Herberg, Simon & Simones**

**NAYS: Hagen**

***Motion passed on a 4 to 1 vote.***

**ADJOURNMENT – *Motion by Member Simones, second by Member Simon, to adjourn the meeting at 10:40 p.m. Motion carried unanimously.***

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

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**BRIAN HERBERG  
MAYOR**