

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, OCTOBER 17, 2007 – 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, Susan Palmer, Jim Pflapsen, Don Simon and Randy Volkmuth. Absent: Jeff Hagen

Staff members present were: Administrator/Clerk Rena Weber, Maintenance Person Rick Hansen, Building Inspector Jeff Howe, Engineer Scott Hedlund & Attorney Jim Mogen.

Planning Commission members present: Toni Honer & Dan Hansen.

Others present were: Tудie Hermanutz, Brian Hatten, Duane Willenbring, Aaron Cheeley, Doris Smith, Holly Voigt, Sharon Sponheim, Ev Balko, Shamba & Philip Mueller, Jan Neyssen, Bonnie Ring, Vince & Audrey Schaefer, Jerry Schmitt, Tom Van Lith, Roger Klein, Dave Volkmuth, and John Koerber.

CONSENT AGENDA: Member Volkmuth questioned CK #009614 - the building surcharge payment. Rena Weber reported that this a state requirement charged for building permits.

Motion by Member Palmer, second by Member Ahles, to approve the consent agenda as presented:

Approve minutes of 10/03/07

Approve Treasurer’s Report of 10/17/07

Approve List of Bills and Additions of 10/17/07

a) Accounts Payable CK # 009590 to 009630 **\$48,458.51**

b) Payroll CK #002852 – 002881 **11,694.71**

c) EFT# 000122 **478.16**

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

Motion passed on a 6 to 0 vote.

BOARD/STAFF REPORT

MAINTENANCE DEPARTMENT - Rick Hansen reported that the soft start part of the Voigt lift station pump needs to be repaired and the cost if \$1400.00. Without the soft start the pump doesn’t run so there is no back up pump.

Motion by Member Volkmuth, second by Member Simon, to approve the repair of the soft start – Voigt Lift Station as presented.

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

Motion passed on a 6 to 0 vote.

BLUE 911 SIGNS – Member Ahles inquired about the status of the 911 signs and are they going to get replaced. Rick Hansen replied that most of the signs have been replaced.

TAMARACK COURT – Member Simon asked Rick if the Tamarack Court project has been seeded. Rick reported it has not been seeded yet.

PLANNING COMMISSION – Chair Toni Honer reported on the following:

SJ LOUIS VARIANCE – 1351 BROADWAY STREET WEST – Toni Honer reported that the Planning Commission reviewed this request for a variance from side yard requirements to construct a 90’ x 108’ cold storage building. Toni reported that SJ Louis has the 50’ gas line easement that runs on the east side of the property and that the ordinance calls for a 150’ setback. The Planning Commission is looking to amend the ordinance to require a 60’ setback as other cities have a 60’ setback.

The Planning Commission also determined that this is the best place for the structure to be built as the back side of the building will face future multi family structures. The Planning

Commission asked SJ Louis to move the building to the west side of the lot, however, this is where they will be doing cleaning of machinery and would be more bothersome to the neighborhood rather than looking at the back side of a cold storage structure. The Planning Commission is recommending approval at 65' with a 15' landscaped buffer plus addressing the engineer's recommendations.

The address of the property is: 1351 Broadway Street West with a legal description of:

That part of the S ½ of the NW ¼ and of the N ½ of the SW ¼ of Section 17, Township 123, Range 29, Stearns County, Minnesota described as follows: Commencing at the Southwest corner of the NW ¼ of said SW ¼; thence on an assumed bearing of N 0° 08' 40" W along the West line of said SW ¼, a distance of 920.00 feet; thence on a bearing of N 89° 51' 20" E, 533.00 feet; thence on a bearing of N 0° 08' 40" W, 38.14 feet; thence on a bearing of N 73° 24' 43" E, 984.19 feet to the point of beginning of the tract herein described; thence on a bearing of N 0° 08' 40" W, 769.34 feet to the Southerly right of way line of Old S.T.H. No. 23; thence on a bearing of N 65° 13' 16" E, along last said line 1303.40 feet to its intersection with the East line of said NW ¼; thence on a bearing of S 0° 19' 15" E along last said line, 1145.65 feet; thence on a bearing of S 88° 40' 32" W, 669.35 feet to its intersection with a line bearing N 73° 24' 43" E from the point of beginning; thence on a bearing of S 73° 24' 43" W along last said line, 541.22 feet to the point of beginning. Subject to easements of record.

Containing 25.00 acres, more or less.

The request is to construct an industrial structure within the required 150' side yard setback requirements of the I-1 Industrial District to the Residential District in the City of Rockville.

STAFF REPORT AND PICTURES

Re: Variance Request

76.41629.900: Owner: Schueller Properties, LLC

Property Address: 1351 Broadway Street West, Cold Spring, MN 56320

Variance(s) Requested:

1. Variance to construct 90' x 108' warehouse and to locate it 55' from east property line which abuts an R-2 Residential District. **150' side yard setback required.**

Construction Requests:

1. Construct warehouse and locate it 5' from the gas line easement currently running along the eastern property line.

Relevant Information:

1. I-1 Industrial District requires that any structures be setback 150' from the side yard.
2. This will be the third structure constructed on a 25 acre lot.
3. The proposed building would be located 133'6" from the Maintenance Building which would allow semi trucks easy access through the yard.

Recommendations:

1. The ordinance requires a 150' setback from side yards. The Planning Commission has reviewed this issue previously with SJ Louis and discussed changing the ordinance to reflect something similar to what St. Joseph has (60'). Attorney Mogen has drafted an ordinance amendment to this effect only requiring the 60' to be landscaped.
2. Maintain existing drainage patterns over, under, and across their property.
3. Proper temporary and permanent erosion control measures (BMP's) shall be implemented during and after construction to minimize sediment leaving the site; this would include proper installation of silt fence or bio-rolls on the down gradient side(s) of any excavations or earth disturbing activities, and subsequent re-vegetation of the disturbed areas soon after work is completed. It appears there are wetland(s) nearby south and southwest of the property.
4. Engineer comments should be reviewed and incorporated once received.
5. Require 60' setback.

ENGINEER REPORT

1. The approved overall site grading plan (without the cold storage building) shows an emergency overflow (EOF) at an elevation = 1076.0 from the NE pond to the south pond in the location of the proposed cold storage building. This overland EOF needs to be maintained outside of the gas main easement. It appears an exposed foundation (east) wall combined with a 5:1 slope constructed from the gas main easement would be one way to achieve the necessary 1076.0 EOF.
2. Implement proper temporary erosion control practices during construction including silt fence on the down gradient sides of any excavations, earth disturbing activities, and stockpiles.
3. Re-vegetate the site promptly after active exterior construction is completed.

Member Pflepsen asked if there would be a limit on the height. It was reported that there is a 35' height limit at present.

Member Palmer reported that a 15' landscaped buffer will be provided (i.e. living fence).

Member Volkmuth stated that from his perspective 150' setback is too strict but with a 15' landscaped buffer and 60' setback this should be okay.

Member Palmer reported that the Planning Commission is looking at allowing a parking lot in this area.

Member Simon indicated that being this is a business coming to the city we need to be business friendly and consider what they are paying the price for the land.

Member Palmer introduced the following resolution and moved for its adoption:

RESOLUTION NO. 2007-35

A RESOLUTION GRANTING A VARIANCE FROM SIDE YARD SETBACKS IN THE INDUSTRIAL DISTRICT.

WHEREAS, A request has been received from S J Louis Construction for a variance from Side Yard Setbacks from a Residential District to construct a cold storage structure and;

WHEREAS, said structure will be placed 65' from the side yard lot line, and;

WHEREAS, Proper notification and publication had been given, and;

WHEREAS, all persons were given an opportunity to be heard on said request at the public hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ROCKVILLE, STEARNS COUNTY, MINNESOTA:

1. **Said request is hereby approved to construct a cold storage structure and to locate it 65' from the side yard lot line.**
2. **Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.**
3. **That granting of the variance will not be detrimental to the public health, safety, comfort and general welfare of the City.**
4. **Said approval includes approval of the site plan contingent upon the Planning Commission recommendations being met:**
 - a) **15' landscaped buffer strip be installed**
 - b) **Engineers requirements are met.**

The motion for the foregoing resolution was seconded by Mayor Herberg with the following vote being taken:

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

Motion passed on a 6 to 0 vote.

PHILIP & SHAMBA MUELLER – 11347 Hubert Lane – Toni Honer reported the Mueller's had 2 variance requests, but they have moved the garage back 5' so there was no variance needed for this structure. The main structure is requested to be located 5' from the roadway. This was recommended for approval by the Planning Commission.

The Mueller's requested approval for a 12' x 28' deck to which the Planning Commission suggests no deck, but rather install a pervious paver patio at the ground level.

The address of the property is: 11347 Hubert Lane, Cold Spring, MN with a legal description of: Lot 4, Block 1 & Lot 5, Block 2, Stearns County Boundary Commission Plat 1 in the City of Rockville.

The request is to construct a 28' x 40' single family dwelling and to build within 20' of Hubert Lane. Setback requirements are: 25 feet from roadway.

Said request also will include a 28' x 12' deck (lake side) and to build within **52'** of the OHWL (ordinary high water level). Required setback is to be no closer than 63' or in line with the abutting structure(s).

Staff Report

Re: Variance Request
76.42301.011: Owners: Philip & Shamba Mueller
Property Address: 11347 Hubert Lane

Variance(s) Requested:

1. Variance to construct a single family dwelling (28' x 40') with an attached 12' x 28' deck and to build within 52' of the OHWL on Grand Lake – General Development Lake. Said request is also to build within 20' of the roadway.

Construction Requests:

1. Remove existing cabin and construct new structure. *The existing cabin was demolished after staff suggested they don't remove it.*
2. Construct 24' x 26' double story garage on Lot 4, Block 1.

Relevant Information:

1. This property is located within the 1000' Shoreland Overlay District.
2. This shows two lots, but is one parcel.
3. Total square footage 11,279 with 2080 square feet of structure. 2819 square feet is allowed. If there is to be any more impervious surface this must be indicated and shown on the site plan.

Recommendations:

1. Staff has worked with the Mueller's to site the buildings further back from the roadway and they did move the garage further back to 25'.
2. The Staff recommends moving the cabin further 5' and eliminate the deck or deny the requests.

Rena Weber reported that a mitigation plan was discussed with Greg Berg and Shamba Mueller and should be workable.

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

RESOLUTION NO. 2007-36

RESOLUTION GRANTING A VARIANCE FROM ROADWAY REQUIREMENTS

WHEREAS, A request has been received from Philip and Shamba Mueller for a variance from Front Yard Setback requirements to construct an 28' x 40' single family dwelling in the Shoreland District, and;

WHEREAS, said structure will be placed 20' from the front yard lot lines (roadway),

and;

WHEREAS, Proper notification and publication had been given, and;

WHEREAS, all persons were given an opportunity to be heard on said request.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ROCKVILLE,

STEARNS COUNTY, MINNESOTA:

1. **Said request is hereby approved to construct the 28' x 40' structure and to locate it 20' from the roadway.**
2. **Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.**

3. ***That granting of the variance will not be detrimental to the public health, safety, comfort and general welfare of the City.***
4. ***That granting of the variance will also include the Shoreland Mitigation recommendations of the City Engineer and Stearns County Soil & Water District be incorporated into the plan.***

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

Member Simon suggested that we work with the people and don't include the Shoreland mitigation requirements as part of the variance.

Member Volkmuth indicated that then people won't do what is being required.

Member Palmer stated that part of allowing the variance is the mitigation plan to protect the water quality.

Mayor Herberg stated that he agrees, once it is already there, it is there.

Member Volkmuth stated that when you look at these things, it gets spendy, but there is a reason why we have the Lake Improvement District. It just takes care of all the things we are trying to do.

Member Pflepsen stated that as time goes by people will embrace these ideas.

Toni Honer stated that as a Planning Commission we are advised to not grant variances, so this is a way to mitigate with people.

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

Motion passed on a 6 to 0 vote.

Accessory Structure Ordinance Amendment – Toni Honer indicated the ordinance really does not apply to A-40. In regards to the time limit there are 9 structures right now that have not built a primary structure and were allowed to build under Township rules.

Jim Mogen stated that the Planning Commission did authorize him to come back with a revised ordinance.

Member Palmer reported that the Planning Commission has begun discussion on the Randall Arndt conservation design concept.

Jim Mogen suggested that two sub-committees be formed to look at different issues:

- Regarding smaller lots in Ag acres
- Addressing conservation subdivision and where that would be most appropriate

Toni Honer suggested that discussion on this wait until the next meeting.

PARK AND RECREATION DEPARTMENT – The September minutes were summarized for the record.

NEW BUSINESS

DAN HANSEN – ANNUAL RENEWAL OF IUP – Dan Hansen was present to report on the status of the Interim Use Permit for the Wetlands Bank. Mr. Hansen stated that he broke even on start up costs and thanked the city for purchasing gravel from them. Mr. Hansen hoped to move out more dirt this year by Knife River using crushed granite for the Broadway Street project and did not purchase gravel from his pit. There were a number of people who did purchase small loads.

Member Palmer asked if there have there been any issues. Nothing was reported.

Member Volkmuth asked do we charge gravel tax. Jim Mogen stated the city has no authority to charge gravel tax, only counties can do that.

Dan Hansen stated that the worst case scenario is that in five years if he does not sell off the gravel he would have to level the whole area.

Member Volkmuth asked whether the landscaping around the outer rim was done since this is in the wellhead protection area. Dan Hansen stated he has not touched the outer rim as there is no water getting in so he does not feel he has to do anything.

Motion by Member Palmer, second by Mayor Herberg, to approve a renewal of the IUP with the same conditions.

Member Volkmuth asked how the \$75,000 Letter Of Credit is working. Jim Mogen reported that the \$75,000 total can be used for 230th Street Improvement and/or restoration of the property.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth.

Motion passed on a 6 to 0 vote.

ENGINEER REPORT – Scott Hedlund reported on the following:

TAMARACK COURT – Scott Hedlund presented a document to discuss the assessment cost breakdown showing 3 options. The city needs to mail out notices of public hearing. Scott explained the differences in the hydric soil areas VS non-hydric and possible assessments.

Option 1 \$22,500 assessed and \$7500 City of Rockville

Option 2 \$18,000 assessed and \$12,000 City of Rockville

Option 2 Assess at different percentage/rates than options listed above.

Member Volkmuth indicated that Option 1 was approved already.

Member Palmer questioned why under Option 2 is the city picking up more of the cost.

Scott Hedlund explained that difference is to reflect a stub benefit only.

Member Pflapsen voiced concern that the council already determined Option 1 would be the assessment option, but the city maintains it from there.

Mayor Herberg introduced the following resolution and moved for its adoption:

RESOLUTION NO. 2007-37

(A complete copy is hereby attached and marked Exhibit A).

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

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth.

Motion passed on a 6 to 0 vote.

SIDEWALK ALONG BROADWAY STREET (NORTH SIDE) Scott Hedlund reported that plans were approved to only put sidewalk along the area in front of Stoney's Bar which is not what the council or citizens thought.

Mayor Herberg reported that he reviewed the footnote on the plan that was approved by the City and it notes: STA 1406+00 – 1407+50 LT 4.0 SDWK and STA 1409+00 – 1412+00 LT 4.0' SDWK so there is an area of 850' which was left out. MNDOT will fund either the concrete sidewalk or the trail. The bike trail is tar and the sidewalk is concrete.

Sidewalk cost is \$9.50/foot

Bike trail is \$4.72/foot

Mayor Herberg suggested the council let MNDOT pick up the cost of the sidewalk and city the bike trail.

Scott Hedlund reported that some of the sidewalk is new so that would have had to be assessed at 100%.

Member Volkmuth voiced concern that this might come back to us saying that we gave sidewalk away for free.

Scott Hedlund voiced concern that people will lose more of their yard so there could be some trees that are affected.

Mayor Herberg indicated plans show 2' of boulevard and felt this could be eliminated. He will address this issue with the county.

Motion by Member Volkmuth, second by Member Palmer, to approve the installation of the sidewalk (north side of Broadway Street (STA 1406+00 to 1412+00) with the city paying for the bike trail and further reserving the ability to assess the sidewalk at a future meeting.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth.

Motion passed on a 6 to 0 vote.

POLICE DEPARTMENT REPORT – Rena Weber reported there were 67.5 contract hours during the month of September.

Member Simon expressed concern regarding four wheelers who are jumping the driveways and wished to have this stopped to prevent erosion of the ditches. It was determined that there is an ordinance in place regarding this.

COMMITTEE REPORTS

MAYOR'S REPORT – Mayor Herberg reported on the following:

STEARNS COUNTY MUNICIPAL LEAGUE – Mayor Herberg reported that a few members went to SCML meeting in Paynesville last week. There were 14 cities, 1 county, and 1 township in attendance. There were 5 or 6 cities with new fire trucks and Rockville's new fire truck has arrived, however, he has not seen it. Other issues discussed were:

- Feedlot issues
- Sauk River Watershed District draft rules – Approval was tabled on the rules and the group is sending a letter of support for the Citizens Advisory Board
- JOBZ – Mayor Herberg reported that Melrose has approved 3 acres of JOBZ land to the City of Rockville for an expansion of Capital Granite.

Land Use Meeting – Don Simon reported that he went to this training that was put on earlier in the evening by Jed Burkett of the League of MN Cities. Rena Weber reported that Mr. Burkett could be contacted to give the same seminar to the Planning Commission and City Council.

EDA REPORT – Rena Weber reported on the following:

USE OF CITY HALL – Rena Weber reported the EDA has determined a rate that will not compete with the Parish Center, but will cover the expense of cleaning and upkeep. It will also require a donation from the non-profits and a refundable deposit.

Member Volkmuth asked about the status of the upstairs of the old city hall/fire hall. It was reported this would be closed down and used for cold storage only.

Motion by Mayor Herberg, second by Member Ahles, to approve the rental rates as recommended:

- a) ***Charge \$50.00 per room and \$75.00 if kitchen is used.***
- b) ***If there are 30 or more people the fee will be \$75.00 and \$100.00 if kitchen is used.***
- c) ***Non-profits – would pay a \$50.00 refundable deposit and further be required to make a donation to the city.***

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth.

Motion passed on a 6 to 0 vote.

SCDP GRANT APPLICATION – Rena Weber reported that Rockville is working with the City of St. Augusta and Clearwater (taking the lead) on obtaining a small cities development program grant to fix up four businesses in the city. The grant is split up as: \$15,000 grant, \$15,000 1% interest and \$15,000 matching grant from the business.

PICKUPS'N POWER SPORTS – Rena Weber reported the EDA reviewed the letter of request from Pickups'n Power Sports for a deferment of their taxes and assessments. The EDA recommends denial of the request as it legally cannot be done.

Motion by Member Volkmuth, second by Member Ahles, to deny of the request to defer payment of taxes for Pickups'n Power Sports for 10 years and also to deny an extension on the water/sewer assessment payment due to the fact that there is nothing that can be done legally to allow such deferment.

AYES: Ahles, Herberg, Palmer, Pflapsen, Simon & Volkmuth.

Motion passed on a 6 to 0 vote.

JOBZ – Rena Weber reported that indeed the city did received approval from the City of Melrose for 3 acres of JOBZ land to be used for an expansion project of Capital Granite. The EDA was asked to send a thank you to the City of Melrose for the release of 3 acres of JOBZ land.

TOM VAN LITH – Tom Van Lith was present to request a reduction in late fees from previous years for consultant fees during 2005 & 2006.

Rena Weber reported that staff researched the issue and provided the following:

- Original invoices - \$11,206.19
- 10% Late Fees - \$13,267.77
- To date Mr. Van Lith has not paid any of the outstanding bills nor the taxes
- In 2004 the council did delete the late fees
- Stearns County Auditors office can go back to delete the late fees
- Jim Mogen indicated this would be a correction of the assessment

Member Pfllepsen asked Mr. Van Lith if we delete the late fees does the principal get paid. Tom Van Lith said no.

Member Volkmuth agreed with Member Pfllepsen that if we delete the late fees and the principal does not get paid, we lose our ability to get the money paid at all.

Member Pfllepsen to Mr. Van Lith – Are you in negotiations with some buyer to sell the land? Tom Van Lith said that he is close to foreclosure and he is hoping to get it down as low as he can.

Member Pfllepsen indicated he could support some negotiation, but not on the principal.

Member Volkmuth suggested we could reduce the late fees some, but not all and get some interest on the money like 8% interest for two years would be \$13,000 net.

Member Pfllepsen indicated this would be a \$10,000 or \$11,000 discount. If Mr. Van Lith can sell the property the council would support some deletion of late fee and not stand in the way of selling the property. No action was taken.

Jim Mogen noted a clarification on the extension of water and wanted to make certain that Mr. Van Lith understands that the city has no intentions of extending water to his property. It was determined that Mr. Van Lith or his buyer could pay to extend the water.

Scott Hedlund reaffirmed that the master water plan shows water going past his property, but the city has no imminent plans right now.

OPEN FORUM

Roger Klein – 24763 Lake Road –stated that he received a letter dated 9/28/07 which was signed by Rena Weber and as far as he is concerned this is his first notice of a violation. This is not Rockville friendly and we should take a lesson from Woodrow Wilson. He was very disappointed the city would send such a letter.

Rena Weber reminded Mr. Klein that she talked to him and that she would have two of the Planning Commission members who attended the site visit two years ago meet at his site next week.

Mr. Klein was fine with that, but felt that he did comply and removed vehicles and appliances from the slope area.

Member Volkmuth indicated that there is probably a lack of communication and offered to meet at the site as the representative of the council.

Motion by Member Pfllepsen, second by Mayor Herberg, to offer a formal apology to Mr. Klein, and further that Member Volkmuth attend a follow up meeting on site on behalf of the city council to come up with a solution.

AYES: Ahles, Herberg, Palmer, Pfllepsen, Simon & Volkmuth.

Motion passed on a 6 to 0 vote.

Mayor Herberg suggested that a written letter of apology be sent to Mr. Klein.

Duane Willenbring – 25139 County Road 139 stated that he would like an apology too. Mr. Willenbring understands the City has the right to assess and asked of the County Road 82 Turnback project what are the actual dollars that are coming out of the city's pockets.

Scott Hedlund reported the costs were approximately \$200,000 for County Road 82 and \$5,000 for C.S.A.H. 8 reclaim project.

Member Volkmuth indicated that he wants the engineer and staff to be open to answering these questions. It was determined that staff would put the assessment roll on the web-site.

Vince Schaefer – Stearns County Commissioner stated he has been listening to all the discussion about the costs. Mr. Schaefer urged people to call him and he can give them the best guess.

Tudie Hermanutz – 211 1st Street W asked what about the railroad tracks and the status of the permit. Mayor Herberg reported on his conversation with the county in that it had not been obtained and that they are trying a different angle.

Greg Seelen – 7775 245th Street was present to comment about an accident at County Road 47 & Highway 15. Mr. Seelen stated he has a very good comfort level of the response time that the Rockville Fire Department showed in responding to this call. “It was very impressive”.

ADJOURNMENT – *Motion by Member Pflapsen, second by Member Volkmuth, to adjourn the meeting at 7:35 p.m. Motion carried unanimously.*

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

**BRIAN HERBERG
MAYOR**

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