

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, DECEMBER 16, 2009 - 6:00 P.M. – ROCKVILLE CITY HALL.

The meeting was called to order by Mayor Jeff Hagen. Roll Call was taken and the following members were found to be present: Mayor Hagen, Council Members: Bill Becker, Susan Palmer, Jerry Schmitt, Randy Volkmuth & Duane Willenbring. John Koerber arrived at 6:03 p.m. Absent: None

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Rick Hansen, Planning Commission Chair Toni Honer, Park & Recreation Board Chair Scott Stenseth & Interim Fire Chief Rodney Schaefer.

Others present were: Deputy Feldewerd, Judy, Kris, Troy, & Vicki Ikeogu, Dave Volkmuth, Tудie Hermanutz, Don Simon, Jim Bell, Cindy Goerger, William Boucher, Sandra Schutz, Theresa Mertes, Jerry Tippelt, Jim Meinz, Jim Faber, Steven Lex, Paul Klebs, Don Eikmeier, & Eve Justin.

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

1. Review applications for Planning Commission/appoint 3
2. Review/approve budget amendments 2009
3. Review/approve designated funds 2009
4. Approve ABDO, EICH & MEYERS contract for 2009 audit
5. Park & Recreation Board – year end report

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.

Mayor Hagen reminded the attendees that the truth in taxation portion of the meeting is for adoption of the budget and tax levy. If people are here to discuss their valuation of property that occurs in the April or May at the Board of Review hearing.

OPEN FORUM

Don Simon – 600 Othmar Lane wanted to know if the council was going to rescind their increase in wage.

Mayor Hagen explained that his personal feeling is the council is doing a lot of extra work outside of the meetings. He asked Mr. Simon to wait and see what the general public feels we are spending on consultants. The council is saving a lot of money in the area of management.

Rena Weber reported that for the record there is a \$10,000 surplus in the council wages that could be designated for a road project.

CONSENT AGENDA

Member Volkmuth questioned the time of the wedding reception on Pleasant Road. Rena Weber explained it would actually run from 3 p.m. to 11 p.m. and they were allowing one hour for shutting it down.

Motion by Member Volkmuth, second by Member Willenbring, to approve the consent agenda as presented:

- a) Approve minutes of 11/18/09
- b) Approve Treasurer’s Report of 12/16/09
- c) Approve List of Bills and Additions of 11/19/09 – 12/16/09

Acct. Payable CK# 011718 to 011775	\$37,970.58
Payroll CK # 003622 to 003633	9,119.42
EFT #000274 to 000279	5,486.73

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.

BOARD/STAFF REPORT

POLICE DEPARTMENT – Deputy Feldewerd reported there were 44.5 contract hours for the month of November and cited the activity list.

Member Schmitt stated he would like to see more patrol on County Road 8.

PLANNING COMMISSION – Chair Toni Honer was present to report on:
JASON & CINDY GOERGER – CUP FOR HOME EXTENDED BUSINESS STAFF REPORT

Re: Conditional Use Permit
76.41610.0010: Owners: Jason & Cindy Goerger
Property Address: 25595 County Road 2, St. Cloud, MN 56301

CONDITIONAL USE PERMIT REQUESTED:

SECTION 16 Subdivision 4: Conditional Uses reads:

The following uses may be allowed as conditional uses following the procedures set forth in this Ordinance and further subject to the performance and general development standards contained in this Ordinance.

- 16. Home Extended Business

Relevant Information:

- 1. This property is located in the Ag-40 District.
- 2. Property contains 10.0 acres more or less.
- 3. 3 notices of public hearing were sent out.

Recommendations:

- 1. This request does not involve construction of any buildings – only changing the use from Agricultural use to home extended business.
- 2. On-site parking will be provided and should not cause any problems.
- 3. Staff recommends approval.

The Planning Commission recommends approval of the request as presented.

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

RESOLUTION NO. 2009-20

RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE A PHOTOGRAPHY BUSINESS IN THE AG-40 DISTRICT IN THE CITY OF ROCKVILLE.

WHEREAS, Jason & Cindy Goerger have requested a conditional use permit in order to operate a photography business (home extended business) in the AG-40 District, and;

WHEREAS, The address of the property is: 25595 County Road 2, St. Cloud, MN 56301 with a legal description of:

That part of the Northwest Quarter of the Northeast Quarter (NW¼ of NE¼) of Section Six (6), Township One Hundred Twenty-three (123), Range Twenty-nine (29), Stearns County, Minnesota described as follows: Beginning at a point of the North line of said Northwest Quarter of the Northeast Quarter (NW¼ NE ¼) distant 370.81 feet East of the Northwest corner thereof; thence east along said North line for 577.53 feet; thence South at right angles to said North line for 754.20 feet; thence West parallel with said North line for 577.53 feet; thence North for 754.20 feet to the point of beginning. TOGETHER WITH an easement for ingress and egress over that part of the West Half of the Northeast Quarter (W½ NE¼) of said Section Six (6) lying within 16.5 feet on each side of the following described line: Beginning at a point on the South line of the above described tract distant 216.08 feet East of the Southwest corner thereof; thence Southerly at an angle of 87°00'12" with said South line as measured from East to South, for 1431 feet to the centerline of County Road No. 2, and there terminating.

WHEREAS, SECTION 16 Subdivision 4: Conditional Uses reads:

The following uses may be allowed as conditional uses following the procedures set forth in this Ordinance and further subject to the performance and general development standards contained in this Ordinance.

16. Home Extended Business

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

1. Said request is hereby approved as presented.
2. Said approval is not a burden on public facilities, is compatible with existing and planned adjacent uses, has no adverse affect on adjacent properties, the use is related to the needs of the city, is consistent with the Comprehensive Plan, is not a traffic hazard, there is adequate parking and loading, and;
3. The granting of the conditional use permit will not be detrimental to the public health, safety and general welfare of the City.

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

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

UTECHT/GREENWALD ADMINISTRATIVE PLAT – Zoning Administrator Rena Weber reported that the request is to split a portion of each property. They would like to split 4.25 acres (in City limits) from the Utecht's and deed to the Greenwald's and split 4.25 acres (in Maine Prairie Township) from the Greenwald's and deed to the Utecht's. The City would only be able to approve the portion that is in the City limits the other portion they would need approval from Maine Prairie Township.

STAFF REPORT

Re: Certificate of Compliance
 76.41644.0800.0800: Owners Roger A & Tammy B Utecht
 Property Address: 8765 County Road 141, Kimball, MN 55353
 Legal Description

TRACT A to attach to 76.4166.0010 Daniel D. Greenwald & Christine Greenwald

That part of the SW 1/4 of the SE 1/4 of Section 26, Township 123, Range 29, Stearns County, Minnesota, described as follows: Commencing at the Southwest corner of said SW 1/4 of the SE 1/4; thence on an assumed bearing of N 00°34'10" E along the West line of said SW 1/4 of the SE 1/4, a distance of 167.85 feet; thence on a bearing of N 56°43'34" E, 523.99 feet; thence Easterly 535.47 feet along a tangent curve, concave to the south, having a radius of 755.50 feet and a central angle of 40°36'33" to the point of beginning of the tract herein described; thence continue Easterly 329.03 feet along last said curve, having a radius of 755.50 feet and a central angle of 24°57'12"; thence on a bearing of S 57°42'41" E tangent to last said curve 73.38 feet to the East line of said SW 1/4 of the SE 1/4; thence on a bearing of S 00°30'30" W along last said line 404.43 feet to the Southeast corner of said SW 1/4 of the SE 1/4; thence on a bearing of S 89°11'03" W along the South line of said Section 26, a distance of 370.56 feet to its intersection with a line bearing S 00°30'30" W from the point of beginning said point being 945.84 feet East of said Southwest corner of the SW 1/4 of the SE 1/4 as measured along the South line of said Section 26; thence on a bearing N 00°30'30" E, 559.55 feet to the point of beginning.

Relevant Information:

1. This property is located in the SP-1 Ag-40 District.
2. Property being split contains 4.25 acres more or less.
3. The Utecht's wish to swap 4.25 acres with the Greenwald's. Part of the Greenwald property is located in Maine Prairie Twp. so the only part the City of Rockville can okay is the portion from the Utecht's to the Greenwald's located in Rockville.
4. There is a legal description for a future driveway easement, but staff was told not to do anything with that.

Recommendations:

1. This request does not involve construction of any buildings – only splitting 4.25 acres.
2. Staff recommends approval.

Toni Honer reported that the Planning Commission approved this request.

FIRE DEPARTMENT – Interim Fire Chief Rodney Schaefer requested approval on:

HIRING OF TWO NEW MEMBERS - The interviewing committee recently interviewed four people for the two approved fire fighter positions. The Committee is recommending that Zachary Hansen and Nolan Bartnick be hired approved pending passing of their physicals. Just to clarify there was \$7,600 left over in the training budget and there is \$5,000 budgeted for 2010. This will be used to train the new people.

Motion by Member Volkmuth, second by Member Becker, to approve the request as presented to approve Zachary Hansen & Nolan Bartnick as fire fighters.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

OFFICER PAY AND DECEMBER PAY DATE - In the past the Fire Department was paid in January for the previous year. This would need to be accrued on the books for the audit. The department is requesting approval to shift to a December cut off date instead of January.

Also, Jeff Howe had submitted a proposal to change the pay for the officers, but this was never acted upon.

The 2nd Assistant Chief also includes the Secretary pay

Request approval to pay:

	2009	2008 & 2007
Chief	\$1500	\$1250
1 st Asst.	1250	1000
2 nd Asst.	1100	750
Secretary		1050
Captains	<u>500/captain = \$1500</u>	<u>250/captain = \$750</u>
Total	\$5350	\$4800

Motion by Member Becker, second by Mayor Hagen, to approve both requests as presented.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

PARK AND RECREATION DEPARTMENT – Chair Scott Stenseth presented the 2009 Year in Review:

Community Park

- ◆ Ice on rink most of last season

Lion's Park

- ◆ Annual Easter egg hunt had almost 200 kids and collected 90 lbs. of food for food shelf
- ◆ Re-seeded outfield and installed a well point
- ◆ Planted a tree in honor of Glenn Imholte and names the field after him
- ◆ Add two soccer goals
- ◆ Designated funs for the walking path

Eagle Park

- ◆ Stone Benches
- ◆ Stone Table
- ◆ Demonstration Garden
- ◆ Purple Martin House
- ◆ Started putting up informational signs
- ◆ Conducted dozens of educational tours
- ◆ Hundreds of volunteer hours were put in

Community Ball Field

- ◆ Successful ball program with over 70 participants (youth) 10 teams Men's softball league Rock Fest
 - ◆ Sponsored the tractor pedal pull with over 60 kids participating Santa Day at Fire Hall
 - ◆ 140 kids 120 lbs for the food shelf
- 2 new members on Park & Recreation are John Koerber & Paul Wirth

NEW BUSINESS

B'S LIQUOR – Jim Bell was present to discuss the recent violation of the alcohol compliance check.

Rena Weber reported that B's Liquor had a tobacco violation in 2008 and a previous alcohol compliance check violation on 2/16/07. At that time the council stayed the action on the \$500 administrative fine pending there were no more alcohol violations within a year. The latest violation occurred on 11/13/09 so it has been more than one year. Fines could be: \$500 or stay the fine for a one year period and if there is a 2nd violation the penalty would be \$1000 plus the original \$500.

Member Becker stated that he has a tough time when they are not checking ID's.

Jim Bell explained what happened and the measures taken to correct the problem.

Mayor Hagen asked what does the county charge. \$900 plus attorney

Member Volkmuth stated that it is tough enough to be in business and with the information present he would let this go.

Member Willenbring stated that he agreed with Member Volkmuth.

Motion by Member Willenbring to stay the fine.

Member Palmer offered a friendly amendment to include: pending there are no more alcohol violations within a year.

Member Willenbring agreed to the friendly amendment.

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

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

RESOLUTION REGARDING POLICY ON FIRE & RESCUE SERVICE AREAS

Rena explained the council is being asked to weigh in on this resolution that was presented at the last SCML meeting. This was a result of what happened in Richmond a few months ago.

Rodney Schaefer reported the Fire Department would like to stay out of it.

Member Volkmuth stated that he agrees with the Fire Chief. We will take care of who needs our help. He would rather say that our intention is to keep the area we have.

Mayor Hagen explained the party who is requesting this is looking for support from other cities who when solicited from a township for service and whose sole purpose is obtaining cheaper fire service. What if a fire department had to put up a new building, addition or purchase a new fire truck so that necessitated an increase in the annual payment. Then the township would go to another city for service. They are looking for city to say we are not going to accept you unless it is for safety of the residents.

Member Volkmuth stated that we are taking away the Townships ability to price check – but he can see both sides.

Mayor Hagen stated that the last paragraph states the "Fire Chief" has the authority and maybe this could be a little clearer.

Member Willenbring stated his concern that it is still the council decision and it is wise to not get into the politics.

Motion by Member Becker, second by Member Willenbring, to approve the RESOLUTION NO. 2009-21 with amendments to the last paragraph starting with FURTHERMORE: (Refer to Exhibit D hereby attached)

- ◆ ***Delete the words "shall be solely responsible in determining"***

- ◆ ***Add the words "in consort with the respective city councils determine"***

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

PUBLIC HEARING

2010 BUDGET & TAX LEVY – Mayor Hagen announced that a public hearing would now be held to consider adoption of the 2010 budget and tax levy.

Administrator/Clerk Rena Weber presented information on the proposed final revenue and expenditure budgets citing a decrease from 2009. The tax levy for 2010 is proposed to be \$994,260 which includes the \$8,228 for the detached area.

GRAPHS PRESENTED:

TOTAL NET TAX CAPACITY - \$2,903,293.00 up 9% from 2008

PROPOSED TAX RATE –40.675 down to 34.004%

GENERAL FUND BUDGET BREAKDOWN –

- ◆ \$ 10,630 – Economic Development
- ◆ 48,390 – Culture & Recreation
- ◆ 196,355 - Public Works
- ◆ 153,140 – Public Safety
- ◆ 344,374 - General Government

No person addressed the council regarding the budget or levy.

Motion by Member Volkmuth, second by Member Willenbring, to close the public hearing at 6:36 p.m.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

Motion by Member Palmer, second by Member Volkmuth, to approve the 2010 Proposed

Budget:

PROPOSED BUDGET 2010 REVENUE VS EXPENSE
REVISED 12/16/09

FUND #	FUND	REVENUE	EXPENSE
101	GENERAL FUND	\$795,505.	\$742,259.
202	PUBLIC LAND DEDICATION	\$0.	\$8,000.
209	ECONOMIC DEVELOPMENT	\$10,630.	\$10,630.
215	ROAD & BRIDGE MAINTENANCE	\$125,612.	\$155,745.
218	WAC/TRUNK ACCESS FUND	\$20,420.	\$0.
219	SAC/TRUNK ACCESS FUND	\$40,845.	\$0.
221	LAKE IMPROVEMENT DISTRICT	\$14,500.	\$14,500.
304	CITY FACILITIES FUND 304	\$231,643.	\$215,450.
305	2004 \$990,000 IMP BD-PIP	\$124,200.	\$118,536.
308	CR 82 STREET IMP BOND	\$23,202.	\$15,238.
309	LAKES SEWER PROJ BOND	\$406,720.	\$493,643.
310	2009 UTILITY DISPOSAL PORTION	\$16,031.	\$15,680.
311	2009 UTILITY WTR CORE CITY/PIP	\$50,495.	\$50,317.
312	2009 UTILITY WTR P.L. PORTION	\$71,496.	\$14,155.
313	2009 UTILITY WTR PIP GOVT'L POR	\$6,253.	\$6,300.
408	ANNUAL EVENT FUND	\$14,700.	\$14,700.
601	WATER FUND	\$136,820.	\$145,000.
602	SEWER FUND	\$267,651.	\$146,695.
604	SEWER DEBT RETIRE-PFA	\$57,800.	\$43,480.
	TOTALS	\$2,414,523.	\$2,210,328.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

Motion by Member Palmer, second by Member Koerber, to adopt the 2010 Tax Levy as presented:

CITY OF ROCKVILLE	SUPPLEMENT TO REGULAR
2010	LEVY FORM
CERTIFIED LEVY	LEVY AMOUNT
LEVY PURPOSE	(PLEASE ROUND TO WHOLE DOLLARS)
Revenue-Fund 101-41000	547,690
Fire Protection-Fund 101-42200	81,650
Economic Development- Fund 209	1,000
Road & Bridge Maintenance-Fund 215	62,487
Rock Fest-Fund 408	4,500
Special Levies Outside of Levy Limits:	
Certificate of Indebtedness Pumper Truck Fund 101-42200	21,650
Certificate of Indebtedness One Ton Truck Fund 101-43100	3,995
Lake Improvement District Fund 101-41000	14,500
2009A G.O. Utility Revenue Bond Disposal Portion-Fund 310	16,001
2004 Prairie Ind. Park Imp. Bond-Fund 305	4,600
City Facilities-City Hall/Fire Hall-Fund 304	216,735
City Facilities-City Hall/Fire Hall-Fund 304 Detachment	8,228
CR 82 Imp (& SJ Louis) Bond Fund 308	11,224
TOTAL NET TAX CAPACITY BASED LEVIES	
TOTAL CERTIFIED LEVY	\$994,260

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.

ORDINANCE 2009-62 –AMENDING SECTIONS 17, 18, & 19 RESIDENTIAL DISTRICTS TO INCLUDE PROVISIONS FOR INTERIM USE PERMITS ALLOWING FARM ANIMALS WITH CONDITIONS

Mayor Hagen announced that a public hearing would now be held (6:39 p.m.) to consider adoption of the proposed ordinance.

Rena Weber reported that the proposed ordinance has been discussed at both the Planning Commission & City Council levels. It essentially allows farm animals to be housed on R-1, R-2, & R-3 property when there are 10 acres or more and there is a 100’ setback from property line or road easement.

Chair Toni Honer reported this was done without an attorney and with much discussion and review of neighboring ordinances. The Planning Commission recommended:

- ◆ 10 acres to 3 acres
- ◆ Setback 100’ to 50’

The changes occurred when the Planning Commission reviewed what is in the city. A few fall under a grandfather clause, but there is a concern of when a property sells, people automatically think that the use continues. St. Augusta goes down to 2 ½ acres. City references the County animal unit.

Setback was reduced due to smaller lots and they don’t want people to place the buildings in the middle of the lot.

This ordinance is being created for an entire city and a CUP/IUP is needed and they don't want to constantly amend the ordinance.

Sandra Schutz – 25173 County Road 138 asked how this affects her with having land on both sides of a road.

Toni Honer informed her that she is grandfathered in. Sandra indicated that she was zoned commercial. *(For the record her property is zoned R-1)*

Sandra also asked if there wasn't anybody who sold off a portion of their land and still have animals. They may be located right next to a road so are they affected by this? Toni Honer indicated this ordinance does not address that and this only affects the residential district.

Member Palmer expressed concern that the person buying the property should do due diligence to determine if the use can continue.

Mayor Hagen stated that when this started the council was reluctant to allow animals in Residential District and has since changed. He was concerned that you can relax provisions in an ordinance rather than stiffen them.

Brenda Lodermeier – 24709 County Road 138 stated she has been there for 26 years. They have two parcels, one with 9.75 acres where their house is and 30 acres. In some point in time should they decide to sell the property is set up for live stock. There is something in her purchase agreement that says she can have a dog kennel and horses. This came from the original township. As far as she is concerned that is a legal binding agreement.

If you have someone who is a responsible horse owner and you are meeting the minimum qualifications - 10 acres is more than enough for one house. She lives in an R-2 which is also commercial. *(For the record her property is zoned R-1)*

Toni Honer stated that just because there is something in the purchase agreement may not hold true for the new person. The acreage that is 9.75 would not be allowed to have horses under this ordinance. Brenda agreed that this may not hold for the new person.

If you have all these farms zoned for R-1, R-2, how can you not allow livestock? She urged the council to be a little more reasonable.

Mayor Hagen cited future development as the area where the council needs to be thinking about in respect to extension of water/sewer.

Tudie Hermanutz – 211 1st Street West stated that we have a planning board. Why don't you let them do their work and accept their recommendations? This should be about less government – not more.

Bill Boucher – 25345 County Road 139 – USDA defines horses are not farm animals, but rather companion animals.

Member Palmer asked if we have a definition for farm animals. Rena Weber stated that the definition is in the ordinance and includes horses.

Excerpt from zoning ordinance definitions:

“ANIMALS”

1. Domestic Animals. House pets such as dogs, cats, and birds which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the City. Domestic animals shall include birds and rabbits normally sheltered outside the home.
2. Farm Animals. Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the State of Minnesota.
3. Wild Animals or Exotic Animals. Any mammal, amphibian, reptile or bird which is of a species not usually domesticated, and of a species which, due to size, wild nature or other characteristics, is dangerous to humans. The term includes animals and birds the keeping of which is licensed by the state or federal government, such as wolves, and raptors. By way of example and not of

limitation, the term includes: snakes, eagles, ocelots, jaguars, cougars, weasels, ferrets, badgers, monkeys, chimpanzees, deer and bison. The term also includes crossbreeds such as the cross between dogs and coyotes and dogs and wolves.

Judy Ikeogu – 23305 County Road 8 stated that she has a problem with the conditions: if your neighbors say anything to you it is gone. That was her understanding and puts a lot of burden on her. When doing a case by case thing – you know who your neighbors are. She is sitting with 10 acres, and people on either side have no problem with it. The land along highway 23 has been for sale as commercial and still has not sold. They have made up their mind that if her land is ever re-zoned, they would sell the whole thing.

Jerry Tippelt – 12348 235th Street state that if you have an ordinance you lose a lot of control. The Planning Commission felt that the best way to handle this was IUP. He read the purpose & intent from the ordinance. This is considered on a case by case basis.

Mayor Hagen clarified the need for the ordinance citing the fact that even though the intent is there it is not allowed under a conditional use or interim use permit.

Motion by Member Volkmuth, second by Member Palmer, to close the public hearing at 7:11 p.m.

***AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.***

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

ORDINANCE NO. 2009-62

AN ORDINANCE AMENDING SECTIONS 17, 18, & 19 RESIDENTIAL DISTRICTS TO INCLUDE PROVISION FOR INTERIM USE PERMITS ALLOWING FARM ANIMALS WITH CONDITIONS

WHEREAS, the City Council of the City of Rockville adopted official zoning controls (“Zoning Code”) pursuant to the authority granted in Minnesota Statutes, Chapter 462 in April 2003 which replaced all pre-existing official controls; and

WHEREAS, the City Council amended the Zoning Code by Ordinance Numbers 2003-06, 2004-18, 2004-19, 2004-20, 2004-25, 2004-26, 2006-30, 2007-40, 2007-41, 2007-42, 2007-43, 2007-44, 2008-45, 2008-46, 2008-47, 2008-49, 2008-50, 2008-51 and 2008-53; 2009-58, 2009-61 and

WHEREAS, the City Council has the authority pursuant to Minnesota Statutes, Chapter 462 to amend the official zoning controls; and

WHEREAS, the Planning Commission seeks to amend and clarify the official controls relating to interim use permits in the R-1, R-2, R-3 District; and

WHEREAS, public hearing was held on December 16, 2009 in front of the City Council, and members of the public were given an opportunity to comment on the proposed amendment. Notice of the public hearing was published in the Cold Spring Record on December 1, 2009; and December 8, 2009.

NOW, THEREFORE, the City Council does ordain:

Section 17: “R-1” Single Family Residential District is amended to add:

Subdivision 4: Conditional Uses

8. Animal Feedlots subject to provisions of Stearns County Feedlot Ordinance and further farm animals may be allowed on lots that are **5** Acres or more in size subject to an Interim Use Permit and at a maximum density of .50 animals per acre. Any building where farm animals are kept shall be setback a distance of 100 Feet from the property line or road easement.

Section 17: “R-1” Single Family Residential District is amended to include a new section 5 – Interim Use Permits and further to re-number the remaining subdivisions.

Subdivision 5: Interim Use Permits

The following interim uses are permitted in the R-1 District with an interim use permit:

1. Farm animals

Section 18: “R-2” Two Family Residential District is amended to add:

Subdivision 4: Conditional Uses

8. Animal Feedlots subject to provisions of Stearns County Feedlot Ordinance and further farm animals may be allowed on lots that are **5** Acres or more in size subject to an Interim Use Permit and at a maximum density of .50 animals per acre. Any building where farm animals are kept shall be setback a distance of 100 feet from the property line or road easement.

Section 18: “R-2” Two Family Residential District is amended to include a new section 5 – Interim Use Permits and further to re-number the remaining subdivisions.

Subdivision 5: Interim Use Permits

The following interim uses are permitted in the R-2 District with an interim use permit:

1. Farm animals

Section 19: “R-3” Multiple Family Residential District is amended to add:

Subdivision 4: Conditional Uses

8. Animal Feedlots subject to provisions of Stearns County Feedlot Ordinance and further farm animals may be allowed on lots that are **5** acres or more in size subject to an Interim Use Permit and at a maximum density of .50 animals per acre. Any building where farm animals are kept shall be setback a distance of 100 feet from the property line or road easement.

Section 19: “R-3” Multiple Family Residential District is amended to include a new section 5 – Interim Use Permits and further to re-number the remaining subdivisions.

Subdivision 5: Interim Use Permits

The following interim uses are permitted in the R-3 District with an interim use permit:

1. Farm animals

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

Member Willenbring asked to clarify that the Shoreland Overlay would not allow any animals. He has heartburn regarding using a double set of standards. He will back the 5 acres, but feels we are infringing of private property rights.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

ORDINANCE #2009-63- AMENDING SECTION 5 – PLANNING COMMISSION MEMBERSHIP

Mayor Hagen announced that a public hearing would now be held to consider adoption of the proposed ordinance reducing the size of membership on the Planning Commission from 7 to 5.

Planning Commission Chair Toni Honer stated she has been watching not having the attorney at their meetings. She indicated that what the members are bringing to the city is their own area of expertise. \$50 is a small amount to pay when people are passionate about the city.

No person appeared either for or against the ordinance.

Motion by Member Palmer, second by Member Willenbring, to close the public hearing at 7:21 p.m.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

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

**ORDINANCE NO. 2009-63
AN ORDINANCE AMENDING SECTION 5 PLANNING COMMISSION
MEMBERSHIP**

WHEREAS, the City Council of the City of Rockville adopted official zoning controls (“Zoning Code”) pursuant to the authority granted in Minnesota Statutes, Chapter 462 in April 2003 which replaced all pre-existing official controls; and

WHEREAS, the City Council amended the Zoning Code by Ordinance Numbers 2003-06, 2004-18, 2004-19, 2004-20, 2004-25, 2004-26, 2006-30, 2007-40, 2007-41, 2007-42, 2007-43, 2007-44, 2008-45, 2008-46, 2008-47, 2008-49, 2008-50, 2008-51 and 2008-53; 2009-58, 2009-61, 2009-62 and

WHEREAS, the City Council has the authority pursuant to Minnesota Statutes, Chapter 462 to amend the official zoning controls; and

WHEREAS, the City Council seeks to amend the number of members of the Planning Commission; and

WHEREAS, public hearing was held on December 16, 2009 in front of the City Council, and members of the public were given an opportunity to comment on the proposed amendment. Notice of the public hearing was published in the Cold Spring Record on December 1, 2009; and December 8, 2009.

NOW, THEREFORE, the City Council does ordain:

Initial appointments shall be made by the Council upon adoption of the first Zoning Ordinance for the combined City of Rockville. The term of the (5) five and no person may be appointed to more than two successive terms as a Planning Commission member. Any vacancy during the unexpired term of an appointed member shall be filled by the Council for the remainder of the term.

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

AYES: Hagen, Koerber, Schmitt, Volkmuth & Willenbring

NAYS: Becker & Palmer

Motion passed on a 5 to 2 vote.

COMMITTEE REPORTS

MAYOR – Mayor Hagen had nothing to report.

PERSONNEL COMMITTEE – Chair Volkmuth reported on the following:

FINANCE DIRECTOR – The committee met to discuss the Finance Director’s position, however, there was no agreement. The committee needs more information and also a needs assessment.

EMPLOYEE POLICY CLARIFICATIONS: Chair Volkmuth indicated there were areas of the policy that needed clarification and the committee recommended approval.

Motion by Member Willenbring, second by Member Palmer to approve the following changes to the employee policy:

5.3 Appointment Authority Full time employees. Personnel Committee selects 3 top candidates who will then be interviewed by the full city council.

It was determined that this should be changed to reflect the Personnel Committee interviews the applicants and makes a recommendation to the full council

7.7 Overtime/Salary Deductions – Non-Exempt Employees

Exempt employees do not receive extra pay for the hours worked over 40 in one work week. Fed law requires OT be paid in excess of 48 hours

OKAY – THIS IS A FEDERAL LAW

7.8 Leave Policy for Exempt Employees All exempt employees are required to use paid leave when on personal business or away from the office for four (4) hours or more, on a given day unless they have already worked 40+ hours for the work week.

OKAY

9.2 Accrual Rates for Annual Leave Annual leave will not accrue during unpaid leaves. Regular part-time employees working at least a average of 32 hours per week will accrue annual leave on a prorated basis based on regular hours worked. Could state: Full-time employees working on average less than 40 hours per week, but at least 32 hours will accrue annual leave on a prorated basis.

OKAY but the annual leave cannot exceed 1 ½ times the maximum amount

Annual leave will accrue on a pay-period basis Should state this will occur on an employees anniversary date.

OKAY

Employees can carry over any annual leave that does not exceed the stated cap.

Should also state when over cap if they stop accruing. If we pay out average or/and if we pay out money for overage is this review once per year, on anniversary each payroll, etc. If only once a year can carry more until that date.

OKAY

If an emergency prevents an employee from using it ANNUAL, City Council approval is need (to what) Accrue above or pay out?

ACCRUE

9.3 Claiming Annual Leave All vacation must be schedule and approved in advance Should state: Whenever possible personal time should be scheduled in advance.

OKAY

10.4 Training The maximum pay shall not exceed eight hours per day at the appropriate rate of pay. May want to remove as some trainings exceed 8 hours per day.

OKAY

13.2 Delete pay for fire fighters since we are no longer paying for training.

OKAY

20.1 Mood Altering – change to controlled substance –

NO CHANGE

**AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.**

ADMINISTRATOR'S EVALUATION – Chair Volkmuth reported that the Personnel Committee held the annual Administrator Evaluation and determined that there were no issues with the Administrator.

PTO – Rena Weber reported that an addition to the agenda also included a clarification on Personal Time Off where it was discussed at the Personnel Committee meeting, but never approved by motion at a council meeting. Staff needs some clarification:

At the Personnel Meeting it states under Article 9-PTO-stick with what we currently are at for vacation and sick pay allowance but delete the 22 days after 12 years of service.

**NOTES FROM A PERSONNEL COMMITTEE MEETING HELD WEDNESDAY, APRIL 29, 2009
– ROCKVILLE CITY HALL – 6:00 P.M.**

OTHER AREAS OF THE POLICY WERE DISCUSSED:

- **Article 9 – PTO** – stick with what we currently are at for vacation and sick pay allowance but delete the 22 days after 12 years of service

Accrual policy is stated in the new policy – cap of 1 ½ times the current amount is allowed:

0 -2 years 10 days

- 3 -5 years 15 days
- 6 -9 years 20 days
- 10 + years 25 days

- Employees are to use up balances by 12/31/2010

What needs to be clarified does the Council want us to accrual 4 hours of PTO (for sick) every month or does the Council want to show the one lump sum 48 hours = 6 days (4 hours x 12 months) added to each employee on their anniversary date.

<u>Previously</u>	<u>Proposed</u>
Vacation+ 4 hours doctor/sick every month 1 year 5 days + 48 hours (11 days)	PTO Accrual sick 0-2 years 10 days + 48 hours (16 days)
2 -5 years 10 days + 48 hours (16 days)	2-5 years 15 days + 48 hours (21 days)
6-12 years 15 days + 48 hours (21 days)	6-9 years 20 days + 48 hours (27 days) 10+ years 25 days + 48 hours (31 days)
13-17 years 20 days + 48 hours (26 days)	
18+ years 22 days + 48 hours (28 days)	

If Council doesn't want 4 hours of accrual per month or 48 hours lump sum then the Council needs to set an effective day on when PTO starts. The system doesn't allow us to keep one or two employee accruing until they reach their anniversary date and stop the others because they met their anniversary date. It is all accruing or none accruing.

** Have an employee that the anniversary date is not until April 2010.

Motion by Member Willenbring, second by Mayor Hagen, to approve the proposed PTO clarification as presented.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

ADMINISTRATOR'S REPORT

REQUEST FOR ACTION – Rena Weber requested approval to purchase one video switch, power supply plug, and labor to install

This replaces the equipment that broke down in October (Cable TV room) \$601.59

Pat Grelson will request ½ payment at the Tri-City Cable TV Commission next meeting in January.

Also request approval for budget amendment:

101-41940-540 Increase from \$1000 to \$2,055.36

This includes the increase due to purchase of microphones earlier this year.

Motion by Member Volkmuth, second by Member Palmer, to approve the request to purchase the video switch and further approve the budget amendment regarding the same.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

JOINT RESOLUTION WITH AREA CITIES – 2010 LEGISLATIVE ISSUES – Rena Weber reported that she shared our changes to the resolution 2009-19 with the area city Mayor's and Administrator's and those concerns were addressed.

LEONARD ONYIAH LETTER – Dr. Leonard Onyiah – 116 Walnut Circle submitted a letter of request for re-consideration of when his maximum sewer rate is set stating the charge is set during the time of year when he has the most company.

Rena Weber explained the city does use the months of November/December to set the maximum sewer rate for the year. Other cities do the same thing. It is estimated that this is the time of year when people would use the normal amount of water. In summer they water lawns & gardens and kids are home from school.

Motion by Member Koerber, second by Member Schmitt, to continue billing per the current policy.

***AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.***

VAN LITH SEWER – Administrator Rena Weber reported that there is a potential buyer of the Van Lith property. The new owner would like to know what the council’s stance is on requiring hookup to city sewer. At this time he does not want to develop & the septic system is okay to use, but the potential owner wants to know if and when the council would require hook up. If it is going to be within a couple years, he would just as soon do it now before he buys it. I told him that he would have to hook up for sure if he planned to develop.

Steven Lex was present to request Council consideration of whether or not he would be required to hookup to the sanitary sewer should he purchase the Tom Van Lith property.

It was determined that if it is developed – hook up is mandatory.

Rena Weber explained that there may be an issue with the easement to service the property. Currently the main line ends at the NE corner of the property and therefore cost prohibitive to hook up from there.

Paul Klebs, Lex’s realtor, asked how difficult would it be to get an easement.

Rena Weber explained that one was in place at a certain time. Records would need to be checked to see where that stands along with a follow up call to Jack Kipka, the owner.

Mayor Hagen stated that it is the intention of the Council to require hook up pending the new owner getting an easement through Kipka’s property.

Potential costs will be discussed with staff.

AUTHORIZE IN HOUSE AD FOR 2ND ASST. FIRE CHIEF –

Motion by Member Volkmuth, second by Member Palmer, to approve the advertisement of the 2nd Asst. Fire Chief in house.

***AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.***

YEAR END BUDGET AMENDMENTS – Rena Weber requested approval of the proposed Budget Amendments:

Motion by Member Volkmuth, second by Member Koerber, to approve the Budget Amendments:

These are changes where we under/over budgeted revenue & expenses

(A copy is hereby attached and marked Exhibit A)

***AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.***

DESIGNATED FUNDS – ***Motion by Member Volkmuth, second by Member Palmer, to designate the following funds for 2010:***

A copy is hereby attached and marked Exhibit B.

***AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.***

PLANNING COMMISSION APPLICATIONS – Rena Weber reported that three people applied for the three positions that are up on 12/3/09. They were Jerry Bechtold, Dale Borgmann & Toni Honer.

Motion by Member Becker, second by Member Willenbring, to approve the re-appointment of Jerry Bechtold, Dale Borgmann, and Toni Honer to the Planning Commission effective 1/1/10.

***AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring
Motion passed on a 7 to 0 vote.***

ABDO EICK & MEYERS – Rena Weber asked for approval to enter into contract with ABDO for the 2009 Audit at the bid price of \$18,545.

Motion by Member Palmer, second by Member Becker, to approve entering into the contract with ABDO, EICK & MEYERS as presented for the 2009 audit.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

PERSONNEL REQUEST – Administrator/Clerk Rena Weber presented a written document regarding the Finance Director's position citing what we know, what skills are needed, what we can do, what the Auditor will be asked to do, what will change.

Member Palmer voiced concern on the issue. Her comments are hereby attached and marked Exhibit C.

It was determined this would go back to the Personnel & Finance Committees.

Rena Weber asked for council action on the following:

CHANGING THE WORK HOURS BACK TO 8 AM TO 4 PM – Rena Weber requested this be for Administration and the Maintenance Department citing inefficiencies.

Motion by Member Palmer, second by Member Koerber, to approve changing the work hours back to 8 a.m. to 4 p.m. as requested.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

APPOINT JUDY NEU 2ND IN COMMAND & AUTHORIZED TO SIGN CHECKS – Rena Weber asked this be approved as well.

Motion by Member Willenbring, second by Member Volkmuth, to approve the request as presented.

AYES: Becker, Hagen, Koerber, Palmer, Schmitt, Volkmuth & Willenbring

Motion passed on a 7 to 0 vote.

OPEN FORUM

Don Eikmeier – 24492 Halfman Road stated that he was present for the 6:30 budget hearing, but did not hear what the results were. His valuation increased and he wished to know why. Mayor Hagen informed him that the hearing was to adopt the 2010 budget and tax levy, not discuss valuations of property. Rena Weber provided Mr. Eikmeier with a document of the County Assessor's recent newspaper article regarding valuations.

ADJOURNMENT – ***Motion by Member Becker, second by Member Willenbring, to adjourn the meeting at 8:27 p.m. Motion carried unanimously.***

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

**JEFF HAGEN
MAYOR**

