

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,  
NOVEMBER 1, 2006 – 7:00 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, Jeff Hagen, Ed Karls, Lloyd Lommel, Don Simon, & Greg Simones. Absent: None.

Staff Members present were: Administrator/Clerk Rena Weber, Maintenance Person Rick Hansen, SEH Engineer Scott Hedlund & Attorney Jim Mogen.

Others present were: Brian Hatten, Tудie Hermanutz, Aaron Cheeley, Duane Willenbring, John Koerber, Jason Zimmerman, & Dave Volkmuth.

**ADDITIONS TO THE AGENDA: *Motion by Member Lommel, second by Member Ahles, to approve the additions to the agenda for discussion purposes.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones  
Motion passed on a 7 to 0 vote.***

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

- a) *Approve minutes of 10/18/06*
- b) *Approve Treasurer's Report of 11/01/06*
- c) *Approve List of Bill and Additions of 11/01/06*

<i>Accounts Payable CK #008480 to 008517</i>	<b>\$26,888.63</b>
<i>Payroll CK #002522 to 002528</i>	<b>\$ 5,865.95</b>

***AYES: Ahles, Hagen, Karls, Lommel, Simon & Simones***

***ABSTAINING: Herberg***

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

**BOARD/STAFF REPORT**

**FIRE DEPARTMENT** – There was no report.

**MAINTENANCE DEPARTMENT** – Rick Hansen reported that he had nothing to report.

Member Lommel inquired about the person on Grand Lake whose lift station was full. Rick Hansen reported that he was aware of this and it is being addressed.

**ROCK FEST** – There was no report.

**NEW BUSINESS**

MESA – Jason Zimmerman, representing the group from Minnesota Electrical Student Association (MESA) was present to request approval to sponsor a fishing event on Grand Lake on 2/3/07. The proper insurance certificate was provided, however, approval from Stearns County Sheriff's Office is still needed.

***Motion by Member Simon, second by Member Lommel, to approve the request to sponsor a fishing contest on Grand Lake on 2/3/07 as requested.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

**ADDITIONS TO THE AGENDA**

**ATTORNEY INTERVIEWS** – Rena Weber suggested that the council interview attorneys after the election ballots are canvassed on 11/8/06.

***Motion by Mayor Herberg, second by Member Lommel, to schedule interviews of attorneys for 11/8/06 approximately 7:10 p.m.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

Member Hagen questioned why Couri, Macarthur & Ruppe Attorneys declined to submit an RFP.

***Motion by Member Simones, second by Member Hagen, to invite Couri, Macarthur & Ruppe to bid stating that the city is of the opinion that John Kolb has been replaced.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

**BUILDING INSPECTOR INTERVIEWS** – Rena Weber reported that she, a staff member and Personnel Committee member Lommel interviewed three building inspection firms.

Discussion was held regarding the process of selection.

***Motion by Member Simones, second by Mayor Herberg, that the committee is to narrow the selection down to two, make a recommendation and the council will then determine which firm to hire.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

**FEE FOR RENTAL OF BUILDING** – Rena Weber requested council approval to establish a rental fee for use of the Maintenance Building (Upstairs Meeting Room) as per the Building Use Policy. Rena Weber suggested the rental fee be the same as what is charged for park buildings.

Mayor Herberg indicated his desire to shut it down completely as it is expensive to heat the upstairs.

Rena Weber reported that Girl Scouts, Boy Scouts, and Sportsman's Club use it now and further that the heat is turned down when not in use.

***Motion by Member Hagen, second by Member Simones, to approve the following***

***fee: \$25.00 Resident (Fee includes MN Sales Tax = \$23.37 x 6.5% = \$25.00)***

***\$50.00 Non-Resident (Fee includes MN Sales Tax-46.75 x6.5%=\$50.00)***

***\$50.00 Minimum (deposit is returned if shelter & grounds are left in very good***

***condition after the event.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

**TAX ROLL CERTIFICATION** – Rena Weber presented a list of unpaid utility bills and development bills for consideration to place such bills on the proper tax rolls with a 10% penalty. It was determined that the Barnes invoices were for information purposes only and would need to be addressed differently.

***Motion by Member Lommel, second by Member Hagen, to approve the list of unpaid bills for certification to the tax rolls as presented. (A copy is hereby attached and marked Exhibit A).***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

**REQUEST FOR DELETION OF BILLS** – Letters of request for deletion of utility bills were received from: Tim Torborg – 21723 Agate Beach Road and Michael Torborg P.O. Box 714 – St. Cloud.

***Motion by Member Hagen, second by Member Simon, to deny the requests for reduction.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

**CEDAR INDUSTRIAL AND JESSE BARTHEL** – Rena Weber reported that these two parcels are still not connected to the sewer system and that council action needs to be taken as to how the city would proceed. Discussion was held regarding hooking up these two and assessing back all of the costs or force legal action.

**Motion by Member Simones, second by Member Hagen, to send each property owner a registered letter stating:**

- a) **This is what is due right now**
- b) **Lay out how it will be in six months**
- c) **The city will charge this much next spring**

**Further stating that if they don't reply, they have been fully informed of the consequences, they can come to the council meeting and ask for forbearance. They may be granted an extension on hookup. This is what the penalties are, month by month and cost of approximate hook up fee = \$1200 approximately. They will have the right to have the hookup done if not done in spring.**

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**  
**Motion passed on a 7 to 0 vote.**

#### **ENGINEER REPORT**

**COUNTY ROAD 82 FEASIBILITY REPORT** – Scott Hedlund presented the report explaining the proposed project and assessments with the understanding that the developer would front the costs and recapture the costs once other development occurs. The project will need easements from Molitor and Dietman as this will be further into the property than the right of way.

Anticipated costs are:

- \$442,679 Total project cost
- \$290,045 Dietman Assessment
- \$152,634 Recapture agreement
- \$290,045 Net Dietman Assessment
- \$185,606 Deed grant
- \$104,439 Remaining

Mayor Herberg voiced concern that there is \$60,000 not being used and suggested that the engineer incorporate the lift station to the west.

Scott Hedlund explained that the trunk mains would be assessed in addition to the lateral. Molitor's would be assessed for lateral and trunk fees. This way the Dietman property owner would be the banker. Scott further suggested there is another way to deal with this and that is to grant a deferred assessment and then the city is the banker.

Member Simones voiced concern that the developer would be the banker and questioned might there be another way of handling this such as a bond for the expenses, have the developer pay the carrying cost with 0% int. for 5 years, and if in the interim the development occurs so much the better. Be creative and don't necessarily be the banker.

Scott Hedlund reported that the developer has been talked to about this.

Member Hagen indicated that if this has been discussed with the purchaser regarding the full recapture then let him come back with a proposal, but be prepared to negotiate.

Discussion was held regarding the installation of the lift station, but not at the far west end of Dietman's property. The council discussed locating it further to the east and having the Dietman property use it.

Member Simon voiced concern that this should be \$50,000 to \$70,000 less. Engineering fee is quite high too.

Member Ahles suggested putting in a lift station and pumping directly into the forcemain.

**Motion by Member Hagen, second by Mayor Herberg, to send a letter to the developer along with the feasibility report. Further the letter is to state the feelings that the developer finance the project 100% and that a recapture agreement be drafted.**

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**  
**Motion passed on a 7 to 0 vote.**

**Motion by Mayor Herberg, second by Member Simones, to approve receiving the report only.**

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**  
**Motion passed on a 7 to 0 vote.**

**COUNTRY SIDE ADDITION** – Scott Hedlund reported that Lange Trenching has completed the drainage improvement project and will sod tomorrow.

**PUBLIC HEARING –SCHILPLIN WATER ASSESSMENT** – Mayor Herberg announced that a public hearing would now be held to consider adoption of an assessment roll for the Schilplin Family water assessment. Attorney Jim Mogen reported that the Schilplin Family signed the agreement by which they are agreeing to the assessment and waiving a right to a hearing. The amount is \$380,685 which is for 50 developable acres over a 10 year period at 5% interest which will be starting in 2007.

*Motion by Member Ahles, second by Member Simon to close the public hearing at 8:22 p.m.*

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**

*Motion passed on a 7 to 0 vote.*

*Motion by Member Simones, second by Mayor Herberg, to approve the assessment agreement as presented and authorize the Mayor and Administrator/Clerk to sign the agreement.*

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**

*Motion passed on a 7 to 0 vote.*

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

**RESOLUTION NO. 2006-39**

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

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

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**

*Motion passed on a 7 to 0 vote.*

**BOTZ ESTATES** – Jim Mogen explained that the plat was approved, which then went to the county surveyor showing the 66' roadway easement. The county surveyor wanted the plat to be cleaner and asked that the roadway be dedicated. Under MN Statutes 505 requirements the Council can administratively correct the problem by reconsidering the plats.

*Motion by Member Hagen, second by Member Lommel, to reconsider the vote on the approval of a final plat to be known as Botz Estates.*

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**

*Motion passed on a 7 to 0 vote.*

*Motion by Mayor Herberg, second by Member Lommel, to reconsider the vote on the approval of a preliminary plat to be known as Botz Estates.*

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**

*Motion passed on a 7 to 0 vote.*

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

**RESOLUTION NO. 2006-40**

**RESOLUTION APPROVING CHANGES TO THE SUBDIVISION PLAT FOR BOTZ ESTATES**

*(A complete copy of said resolution is hereby attached and marked Exhibit C)*

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

**AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones**

*Motion passed on a 7 to 0 vote.*

**MITCHELL LANE STATUS** – Attorney Jim Mogen reported that he plans to bring a schedule of events for completion of this project. There should be one or two public hearings before the end of the year.

**COMMITTEE REPORTS**

**MAYOR'S REPORT** – There was no report.

**ADMINISTRATOR'S REPORT**

**CLARENCE BLOCH VARIANCE** – Rena Weber reported that the variance request is being reviewed by the DNR and also Stearns County Environmental Services for possible solutions. This is scheduled for public hearing on November 14<sup>th</sup>.

Mayor Herberg reported on the number of phone calls he has received. People are asking why do you go through the process, and people don't build accordingly. He is concerned that the Planning Commission should not be looking at the request. This should be a wake up call to the inspection staff as they have to do the measurement.

Mayor Herberg also voiced concern that a new contract is drawn up for the building official that does cover actions to be taken in the event of mistakes. We need something that gives us authority to end the contract if we are not happy.

Rena Weber will get sample contracts from LMC or other cities.

Member Hagen indicated that he still would like to have a small group meet with 1 to 2 council members, 2 Planning Commission members who will come to the Planning Commission with a recommendation.

Attorney Jim Mogen stated that this is a violation that would require another variance. The penalty can be such where people will think twice and the city can include conditions, plus recover costs incurred up to this stage. The fallback position is abatement.

Attorney Jim Mogen suggested that he meet with the committee once to bring everybody up to speed, and then once with the party.

***Motion by Member Hagen, second by Mayor Herberg, to appoint the following to the sub-committee; Mayor Herberg, Greg Simones, Jerry Bechtold, Sue Palmer, and Dale Borgmann. The sub-committee will meet on 11/8/06 at 6:00 p.m.***

***AYES: Ahles, Hagen, Herberg, Karls, Lommel, Simon & Simones***

***Motion passed on a 7 to 0 vote.***

#### **OPEN FORUM**

Duane Willenbring – 25123 County Road 139, had two questions:

- a) Did the council members have the Schilplin agreement before tonight? Yes.
- b) Question to the engineer – has a survey been done to determine if the Dietman property can be gravity fed. Scott Hedlund reported that he will determine this at final design.
- c) Current Building official – does she have the duty to verify the zoning? Verify the contract.

Tudie Hermanutz -211 1<sup>st</sup> Street West, asked the council to check and see if we can do anything about the railroad crossing for Mill Street West? The city will contact the railroad. Scott Hedlund reported that it usually costs \$1000/foot and eventually the city pays for it.

***ADJOURNMENT – Motion by Member Hagen, second by Member Lommel, to adjourn the meeting at 9:06 p.m. Motion carried unanimously.***

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

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**BRIAN HERBERG  
MAYOR**

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