

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, JUNE 7, 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. Absent: Member Simones.

Staff members present: Administrator/Clerk Rena Weber, Engineer Scott Hedlund, Attorney Jim Mogen, Public Works Director Greg Stang, EMS Director Mike Hofmann, Fire Chief Randy Dingmann, & Rock Fest Coordinator Kathleen Stanger.

Planning Commission Members present were: Chair Jerry Bechtold, Dan Hansen, & Dale Borgmann.

Others present were: Cheryl Lommel, Harold Rosenow, Tom Van Lith, Heidi Peper, Aaron Cheeley, Tudie Hermanutz, Ev Balko, Clarence Bloch, Vernon Roskes, Mike & Joan VanderWeyst, & Bill Molitor.

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

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

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

**CONSENT AGENDA:** Member Lommel questioned the negative balances in development accounts. Rena Weber reported that these balances were certified to the tax rolls for payment.

***Motion by Member Ahles, second by Mayor Herberg, to approve the consent agenda as presented:***

a) ***Approve the Minutes of 05/17/06***

b) ***Treasurer's Report of 06/07/06***

c) ***List of Bills and additions of 06/07/06***

***Accounts Payable CK #007967 to 008030***

***\$47,605.76***

***Payroll CK 002381 to 002390***

***\$ 5,671.32***

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

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

**BOARD STAFF REPORTS**

**FIRE DEPARTMENT** – Randy Dingmann reported on the following:

**PURCHASE OF COMPUTER** – Randy Dingmann requested approval to purchase a computer at an approximate cost of \$800.

**FLAMMABLE CABINET** – Randy Dingmann also asked for approval to purchase a flammable cabinet which is an OSHA requirement. Randy indicated further that the cost may be over \$500.00 with shipping.

***Motion by Mayor Herberg, second by Member Ahles, to approve purchase of both the computer at \$800.00 and the flammable cabinet at approximately \$500.00.***

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

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

**MAINTENANCE DEPARTMENT** – Public Works Director Greg Stang reported on the following:

**DITCH MOWING** – Greg Stang requested approval to contract with Math Schmitz for ditch mowing at \$55.00/hour plus fuel to equal approximately \$3500.

***Motion by Mayor Herberg, second by Member Simon, to approve the request to hire Math Schmitz in an amount of approximately \$3500 for ditch mowing.***

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

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

CRACK FILLING – Greg Stang requested approval to hire Lawrence Schreffler to do the budgeted crack filling at approximately \$20,000.

Mayor Herberg voiced concern about it being just like ice. Mayor Herberg asked that Greg look at the application process further before we approve the contract. Greg Stang stated that right now they route out one inch and maybe the contractor would go back to  $\frac{3}{4}$ ". Greg Stang will explore this more.

Member Ahles indicated they had the same problem at Rocori.

DUST CONTROL – Greg Stang requested approval to hire Ferrell-Gas, New London to do \$8250 of dust control. Greg cited that he would do the same streets as last year, however, the price increased.

***Motion by Mayor Herberg, second by Member Ahles, to approve the request to hire Ferrell-Gas in an amount of approximately \$8250 for dust control.***

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

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

**ROCK FEST** – Kathleen Stanger reported on the following:

COUNCIL FUND RAISER – Mayor Herberg informed the council about a proposed fund raiser where a "pie in the face" is involved. Whoever gets the most votes could buy their way out of the situation or receive a pie in the face. This could raise \$3000.

GROUNDS SITE PLAN – Approval was given on the ground site plan.

ROCK FEST BUTTONS FOR SALE – Kathleen reported that Rock Fest buttons are for sale at a cost of \$3.00 each and are good towards entrance fees as well as other events.

Granite Man Triathlon – approval is needed.

Next meeting – 6/14/06 – 7:00 p.m. – New City Hall

Mike Hoffman reported on the parade and his meetings with Stearns County Sheriff's office.

**PUBLIC HEARING-** Gambling Ordinance Amendment

Rena Weber read the notice of public hearing and explained the two changes:

Section 2 C – Delete the words "or located within the Rockville trade area".

Section 2 D – Add the words "and Rocori School District."

Mayor Herberg explained the reason for C to delete "located within the Rockville Trade Area".

Member Lommel questioned how this would work? You are in the local trade area but do not have 30% live in the city limits.

Member Hagen indicated that this seems to contradict the MN Gambling law intent and the two would contradict each other. Member Hagen's concern is that if you want them to spend the money here that can be handled.

Mayor Herberg explained the first ordinance required 20% and there was discussion then that if it was lowered to 10% the city would have it dedicated to them.

Rena Weber read the ordinance requirement where 50% of the funds are to remain in the trade area.

Member Hagen stated that this does not accomplish what Mayor Herberg is looking for. He does not like that we require people to live in the city or trade area. "There are other organizations that would donate more than that here. What if the Lion's Club does not want to be in an establishment and other organizations do not meet the ordinance".

Member Hagen also indicated that he is not sure he even approves Rocori School District – should just be Cold Spring or geographically within a trade area. Cold Spring is totally encompassed by Wakefield. "What if Richmond School District has two school districts like Rockville has? Using the school district to define the trade area as the entity that does not fit and it should be governmental".

Vernon Roskes – Hubert Lane, stated where he came from (Watertown) it is all closed. This is just like what Mayor Herberg is talking about so the money stays in town. He would like to see it closed.

Dan Hansen – 23762 Mill Street – stated that he agrees with Mayor Herberg and urged the council to keep the money in Rockville.

**Motion by Member Lommel, second by Member Ahles, to close the public hearing at 7:53 p.m.**

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

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

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

**ORDINANCE # 2006-33**

**CHARITABLE GAMBLING ORDINANCE AMENDED**

**THE CITY COUNCIL OF THE CITY OF ROCKVILLE, STEARNS COUNTY, MINNESOTA DOES HEREBY ORDAIN:**

**Ordinance No. 2003-05 Charitable Gambling Ordinance is hereby amended to read:**

**SECTION 2: License Required. The City Council of ROCKVILLE, under the authority of Minnesota Statutes, Chapter 349, hereby ordains that gambling license applications shall be approved by the city only for fraternal, religious, veterans, or other non-profit organizations. Such organizations must:**

- A: Have been in existence for more than 3 years**
- B: Have more than (15) fifteen members**
- C: Have thirty (30%) percent of their members residents of the city limits of ROCKVILLE.**
- D: And have their headquarters located in the city or trade area. Said trade area is defined as the city limits, Cities of Waite Park, St. Augusta, & St. Cloud and Townships of Maine Prairie, Wakefield, & St. Joseph and the Rocori School District. Upon application for approval, it will be the duty of the organization to submit a current list of members to the Administrator/Clerk. An updated list shall be submitted with each renewal application. Because of the nuisance prone nature of gambling compared to other licensing activities within the City of Rockville, the City is requiring the residency requirement for charitable organizations so as to facilitate investigation of applicants, and the investigation and arrest of any violators.**

**SECTION 7: Effective Date. This ordinance shall be effective and apply to all lawful gambling conducted in the City upon passage and publication in the official newspaper.**

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

Member Ahles questioned the 30% being members.

Member Hagen questioned what the definition of member is.

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

**NAYS: Hagen**

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

**PLANNING COMMISSION** – Chair Jerry Bechtold reported on the following:

**NEW MEMBER** – Jerry Bechtold reported that Sue Palmer is now on the Planning Commission.

**PRAIRIE BUSINESS PARK** – The Planning Commission recommends approval of both the Preliminary and Final Plat contingent on the signing of a development agreement. This is within the intent of the ordinance as the first plat was to have on-site systems. Jerry Bechtold reported that we have a substantial amount of people who want smaller lots.

**VOIGT BUS SERVICE** – Jerry Bechtold explained that Peter Walz is willing to sell 5 acres to Voigt Bus Service, but there are some details that need to be taken care.

**DUANE WILLENBRING** – Jerry Bechtold reported that there has been some discussion on how he can build on the two remaining lots on Walnut Circle.

**TRANSITION ZONING** – The Planning Commission is exploring Transitional Zoning & spot zoning.

**PRAIRIE BUSINESS PARK** - Rena Weber reported on the easement/drainage utility easements that need to be vacated with a public hearing which is scheduled for 7/5/06

Jim Mogen reported on the status of the developer's agreement together which should be a simple developer's agreement. This will address the issues brought up at the Planning Commission meeting.

Mayor Herberg stated that in this plat there was a property line dispute where Heiserich and Minnerath property lines meet. There was discussion about making sure this gets cleaned up and he would like to see that this is done before we approve any more changes.

Bill Molitor, developer of the park, reported that at this time they are only addressing everything on the east side of the plat. The problem here had nothing to do with Prairie Industrial Park. Bill Molitor did a quit claim deed to Heiserich and on the same day Heiserich changed their name.

Mayor Herberg stated that Minnerath is asking him about how this is getting taken care of. He does not want to be dealing with legal battles after the fact.

Bill Molitor stated there is another part that is not settled with Freedom Auto.

Rena Weber suggested the city meet with Jim Mogen and their attorneys to resolve this.

***Motion by Mayor Herberg, second by Member Karls, to table action on this until***

***7/5/06.***

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

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

**MORATORIUM ON SHORELAND** - Jerry Bechtold questioned the moratorium on the Shoreland development in order to review the ordinance. The Council instructed the Planning Commission to form a committee to review Shoreland ordinance requirements. The Committee contacted Russ Schultz from MNDNR and they are reviewing the ordinance in order to develop an ordinance to fit our city. Points to consider are that the material they are looking at is more restrictive. It is also subject to MN Statute 462 whereas Stearns County uses MN Statute 392. The committee needs direction from the Council on which way the council wants to go (using the Alternative standards and 462 or 392. Jerry stated further that he is not sure how Stearns County is going to like reviewing our ordinance when the county ordinance is different. The Committee further wants to know the council will support us when we come in with a proposal. Jerry Bechtold suggested we hold another joint meeting at the end of the process to consider mark ups. We will be creating more sub-standard lots. Dale Borgmann's lot is being reviewed to see what we can and cannot do regarding building in the shoreland.

#### **ADDITIONS TO THE AGENDA**

**CHIPPE SHOP BUSINESS SUBSIDY** - Heidi Peper, Executive Director for the EDA, was present to report that Rick Anderson, owner of the Chippe Shop is looking for financial assistance to move their business to Rockville. Tax abatement was explained. The business would have to go to each entity (School District 750 & Stearns County) for assistance and they are not going to do this.

Heidi explained that the bare land today has taxes that are valued at \$1,535.00. This is estimated to go up to \$6900. This could further be allowed for 10 years at \$7,000 maximum per year. The EDA adopted a Business Assistance policy and recommends approval of this.

The next step is to have Ehlers & Associates do a pro-forma to identify the need and pass the "but for" test.

Discussion was held regarding who should pay for the pro forma. It was determined that Heidi should check with Rick Anderson if he is willing to pay the cost of \$2,000 at the most.

***Motion by Mayor Herberg, second by Member Hagen, to authorize the pro forma for the Chippe Shoppe, pending Rick Anderson's approval and further to require a reimbursement agreement.***

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

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

**RESOLUTION CHANGING POLLING PLACE** – Administrator/Clerk Rena Weber presented a resolution changing the polling place for Precinct 2 (City Hall).

**Member Ahles introduced the following resolution and moved for its adoption:  
RESOLUTION NO. 2006-19**

**RESOLUTION ORDERING A CHANGE IN THE LOCATION OF THE POLLING PLACE FOR PRECINCT TWO (2) THE CITY OF ROCKVILLE, STEARNS COUNTY, MINNESOTA.**  
**WHEREAS, The City of Rockville has constructed a new city hall facility at 229 Broadway Street East, and;**  
**WHEREAS, The City of Rockville is required to provide a designated polling place for each precinct to be used for all special and general elections, and;**  
**WHEREAS, Each polling place shall provide adequate space within which all potential voters may cast their ballot, and;**  
**WHEREAS, MN Statutes 204B.16 states that voters in any precinct with change in designated polling place must be notified in writing within 90 days of an upcoming election of the change, and;**  
**WHEREAS, Precinct 2 is affected by this change.**  
**NOW, THEREFORE, BE IT RESOLVED by the City Council of Rockville, Stearns County, Minnesota.**

**That beginning with this day, the polling place for Precinct 2 in the City of Rockville shall be located in the City Hall Facility at 229 Broadway Street East.**

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

#### **ENGINEER REPORT**

**TOM VAN LITH – WATER IMPROVEMENT** - Scott Hedlund presented a report on the cost to extend water to the Van Lith Development. Scott indicated that Mr. Van Lith is still very much interested in developing and is looking for direction from the council for a community well or assistance in extending city water out to his area. Estimated costs presented were:

\$557,135.90 – project budget

\$129,000.20 cost to extend from 80<sup>th</sup> Avenue to 82<sup>nd</sup> Ave.

Watermain currently stops on the west end of the Sorenson property.

Scott Hedlund further reviewed the budget page and anticipated revenue page. Scott indicated that the only agreement in ink is Arcon Construction who has paid \$643,000 and the Schilplin assessment needs to be certified by January 1, 2006. Scott Hedlund indicated that \$1.6 million is needed and if you add Brentwood and Schilplin – you have 1.6 million. The city also needs to discuss assessing the Voigt property for the trunk charge. The city did assess the Sorenson property and if we get that all secured we are sitting pretty good financially.

Scott Hedlund indicated that with Mr. Van Lith's property we are looking at \$550,000 and with this fee structure the city would generate under \$170,000 so there is a gap. A bulk of the improvement is covered with just the trunk charge. In the long term it looks like we would be fine with absorbing that gap, however, \$225,000 is at stake. Scott Hedlund stated that he did talk with Mark Ruff and if this is something we want to pursue we should meet with him and see what he recommends. All concerns that were raised with the EAW will be addressed due to lack of water and how it affects wells in the surrounding area.

**Motion by Mayor Herberg, second by Member Ahles, to recommend the staff meet with Mark Ruff to work out the numbers.**

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

**NAYS: Hagen**

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

Tom Van Lith was present to state that his understanding was that if he could put in a community well it would be okay. A community well costs \$150,000 and he agrees to hook up to city water once it comes in. Mr. Van Lith is requesting something in writing from the city that if a community well proves out the city will approve a community well.

Mayor Herberg stated the Street Committee has real reservations that Mr. Van Lith will find enough water. This is another option the Committee viewed and feels it may be a good plan and in the long run may be the smartest way to go.

Attorney Jim Mogen stated that it is prudent to remind Mr. Van Lith that water was not the only issue.

**LENA LANE & BURG STREET RECONSTRUCTION** – Scott Hedlund put together estimates to reconstruct Lena Lane and Burg Street for the 6/19/06 public informational meeting at 6:00 p.m. This cost does include extension of water.

**MODEL RIGHT OF WAY ORDINANCE** – Scott Hedlund reported that a copy of the ordinance is included in the packets and is recommended by LMC. Pages 1 – 18 highlight what is in the ordinance. The ordinance will monitor who is working in your right of way. It also requires that everyone who is working in the right of way is certified and provides proof of insurance. It was determined that staff will review the ordinance and present their findings to the Street Committee and then back to the City Council.

**OLD BUSINESS** – There was none.

**NEW BUSINESS** – There was none.

#### **COMMITTEE REPORTS**

**MAYOR'S REPORT**- Mayor Herberg reported on a letter he received from Stearns County Soil and Water Conservation District requesting support that the city would budget \$1000 in 2007 for the purpose of hiring an urban conservationist. This position would work for SCSWD and would be available to assist cities with development issues. SCSWD is looking for commitment of \$1,000 by 7/15/06.

***Motion by Member Ahles, second by Mayor Herberg, to approve the request for \$1,000 in 2007 for the hiring of an Urban Conservationist position.***

***AYES: Ahles, Herberg, Lommel***

***NAYS: Hagen, Karls, Simon***

***Motion was tied on a 3 to 3 vote.***

**STREET COMMITTEE** – Chair Don Simon reported on the following:

- Van Lith water issue – this was covered previously this evening
- John Kirscher – the Street Committee needs to see proof that this definitely is one lot
- Steve's Excavating bill for Sand's grinder station depth – BWK to pay this cost
- Telemetry Issue – BWK to design at their cost and City to purchase repeater
- Grand Lake Lift Station – BWK to raise 2'
- PIP flow meter – the city needs more information in order to turn a claim into city insurance for repair of the flow meter
- Lake Road Ditch Repair – the city will be getting bids from Anything Outdoors & North Star Landscaping for repair and this will be billed back to Barbarossa
- Lynda Maas –complaint of driveway repair – Barbarossa to pay Ms. Maas \$1433. for the repair since she does not want the city to repair it.
- 400 Club – we are still testing.
- 123<sup>rd</sup> Ave – The Street Committee is looking to meet with people to discuss a way to provide a turn around for buses
- Street Vehicle – The Committee is looking for support of the council to use a DNR truck for maintenance duties.

Randy Dingmann stated that he does not have a problem with them using the truck once in a while, but is wondering who has to answer for it when the DNR stops in to check on the equipment. Fire trucks are emergency vehicles and have to be available. This truck is owned by the DNR.

Mayor Herberg questioned Randy Dingmann that if the city starts using this truck as a Maintenance Vehicle could that jeopardize our relations with the DNR.

Discussion was held on how often Maintenance would use the truck.

Randy Dingmann will check with the DNR to see if they have any vehicles for Maintenance and also urged the city to look for forfeiture trucks.

- 911 system – Chair Simon urged residents to return 911 fire signs as they are no longer used.

**FINANCE COMMITTEE REPORT** – The Finance Committee provided a written report regarding their findings for financing a fire pumper truck. (A copy is attached and marked Exhibit A).

***Motion by Mayor Herberg, second by Member Karls, to approve the recommendation to go with the GO Bond first and secondly the lease purchase option.***

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

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

Don Simon left at this point.

#### **OPEN FORUM**

Jerry Bechtold – 24353 125<sup>th</sup> Avenue, stated that he heard the same discussion on extending sewer to the lakes area that the council heard tonight about extending water to Lena Lane and Burg Street. Back then every body paid the same rate because it was a community project.

Tudie Hermanutz – 211 1<sup>st</sup> Street W, asked if there is anything the city wants to put in the paper about the open house. (*Open House will be held June 17, 2006 – 10:00 – 12:00 noon*).

***ADJOURNMENT – Motion by Member Ahles, second by Member Lommel, to adjourn the meeting at 9:34 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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