

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY
NOVEMBER 17, 2010 - 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, John Koerber, Susan Palmer, Jerry Schmitt, Randy Volkmuth & Duane Willenbring. Absent: None

Staff members present were: Administrator/Clerk Rena Weber.

Others present were: Tудie Hermanutz, Sam DeLeo, Clarence Bloch, Don Simon, Mike Hofmann & Sgt. Noetzel.

OPEN FORUM

No one appeared.

ADDITIONS TO THE AGENDA

Motion by Member Volkmuth, second by Member Willenbring, to approve the additions to the agenda for discussion purposes.

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

CONSENT AGENDA

CONSENT AGENDA – Motion by Member Palmer, second by Member Volkmuth, to approve the consent agenda as presented:

- a) **Approve minutes of 10/20/10 & 11/10/10**
- b) **Approve Treasurer's Report of 11/17/10**
- c) **Approve List of Bills and Additions of 11/17/10**

Accounts Payable CK # 012497 – 012548	\$28,042.76
Payroll CK# 003865 – 003884	\$10,890.65
EFT #000372 – 000379	\$ 7,778.45

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

BOARD/STAFF REPORT

POLICE – Sgt. Noetzel was present at the meeting to report that there were 37 contract hours during the month of October.

PLANNING COMMISSION – Rena Weber reported on the following:

DAVE & JEANETTE BILLIG @ 21748 COUNTY ROAD 8 –VARIANCE REQUEST: The Planning Commission held a public hearing to consider the request of Dave A & Jeanette M Billig for a variance from Shoreland Requirements. The address of the property is: 21748 County Road 8 with a legal description of: 33A N80 and apos; of that part of N 40A of Govt. Lots lying between the W shore of the lake and County Road 8.

The request is to construct a 705.6 SF cabin and 96 SF unattached shed in the R-1 – Shoreland District.

Variances from the following were discussed:

- ◆ Setback from center line of County Road should be 100' (proposed 50')
- ◆ Setback from OHWL should be 75' (proposed 50')

STAFF REPORT

Re: Variance Request(s)
76.41650.0500: Owners: Dave A & Jeanette M Billig
Property Address: 21748 County Road 8

VARIANCE(S) REQUESTED:

1. Variance to construct a 705.6 sf cabin and 96 sf unattached garage and to locate it on property abutting Grand Lake – General Development Lake.
2. Said request is to also locate said structure 50 feet from the centerline of the roadway – (should be 100') County Road 8 and
3. Structure to be located 50' from the OHWL and should be 75'

CONSTRUCTION REQUESTS:

1. Construct new cabin unattached shed and match the structures.

RELEVANT INFORMATION:

1. This property is located within the 1000' Shoreland Overlay District.
2. Property contains 14,375 square feet more or less.
3. 10 notices of public hearing were sent out.

RECOMMENDATIONS:

1. This requires 2 variances on a non-conforming lot that was in place before the ordinance was adopted.
2. The property owner appears to have made every effort to meet setbacks and remain within the site line of both neighbors.
3. Approve as presented.

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

RESOLUTION NO. 2010-24

A RESOLUTION APPROVING VARIANCES IN THE SHORELAND DISTRICT.

WHEREAS, A request has been received from Dave & Jeanette Billig for variances from: Setback from OHWL and also Roadway requirements to construct a 705.60 square foot cabin and 96 square foot unattached garage in the R-1 Shoreland District and;

WHEREAS, said structure will be placed 50' from roadway, locate said structure 50' from the OHWL, 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 705.60 square foot cabin and 96 square foot unattached garage that will be placed 50' from roadway, locate said structure 50' from the OHWL.***
2. ***The structures must be finished within a year.***
3. ***Impervious surface must be less than 15%.***
4. ***A rain garden will be constructed and maintained.***
If driveway added – check the impervious and add the rain garden – storm water plan
5. ***Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.***
6. ***That granting of the variance will not be detrimental to the public health, safety, comfort and general welfare of the City.***
7. ***The siding and shingles shall match structures.***
8. ***The drainage and mitigation plan will be constructed and maintained.***

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

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

CLARENCE BLOCH @ 11285 HUBERT LANE – PRELIMINARY, FINAL PLAT & REZONE:

The Planning Commission held a public hearing to consider approval of a Re-zoning of certain property & Preliminary & Final Plat to be known as:

BLOCH ADDITION

Said plat has a legal description of: All of lots 1, 3, 4, 5, 6, 10, & 11, Block 1, STEARNS COUNTY BOUNDARY COMMISSION PLAN NUMBER1, according to the recorded plat thereof on file and of record in the office of the County Recorder, Stearns County, Minnesota.

NEW LEGAL DESCRIPTION: LOTS 1 through 7, Block 1, Bloch Addition

The reason for the request is to attach land adjacent to said lots.

STAFF REPORT

RE: SITE PLAN APPROVAL

76.42189.0000 Owners: Clarence J. Bloch & Mary Ann Bloch
Property Address: 11285 Hubert Lane, Cold Spring, MN 56320

REQUEST:

Approval to rezone 6.07 acres in A-40 District to R-1 Single Family Dwelling
Approval to sub-divide into 7 parcels to be attached to property abutting Hubert Lane

RELEVANT INFORMATION

1. Property is zoned A-40
2. Property is 6.07 acres approximately.
3. The owner is proposing to sell the abutting land owners the property for attachment purposes only.
4. These are non-conforming lots so attaching it to the lakeshore lot makes it closer to conformity. If approved people would still need to apply for permits/variances should they decide to build anything.

RECOMMENDATION

1. Dedicate 12' drainage and utility easement around perimeter of lots
2. Attach deed restrictions stating that these are not developable lots, but this is making them closer to conformity.
3. Indicate that the lots will attach to the lots on the north side of Hubert Lane which could allow space for Stormwater improvements and provide expansion to meet setback requirements.
4. City Attorney is drafting the legal document addressing this process.
5. Approve with these conditions.

REZONE ALL EXCEPT LOT 7 (FARM HOUSE)

Member Becker questioned if there are purchase agreements with the residents to buy this land if the plat is approved.

Sam DeLeo explained that it is verbal at this time and that the plat can't be recorded unless they all sign the plat.

Attorney Adam Ripple had reviewed the proposal and presented a declaration of restriction which will require these parcels to be attached to the lots on the north side of Hubert Lane. Further this does not make them buildable lots, but is making them more buildable. This declaration must be filed with the plat.

**DECLARATION OF RESTRICTIONS
FOR
ATTACHMENT PURPOSES**

THIS Declaration of Restrictions for conveyance for attachment purposes "Declaration" is made this ___ day of _____, 2010, by the undersigned (collectively "Declarants").

WHEREAS, Declarants have submitted a preliminary and final plat ("Bloch Addition") to the City of Rockville;

WHEREAS, the purpose of the Bloch Addition, a copy which is attached as Exhibit A, is to expand a number of existing lots that are part of the Stearns County Boundary Commission Plat Number 1 ("Existing Lots").

WHEREAS, the Existing Lots and the lots created by the Bloch Addition are nonconforming and do not meet the requirements of the City of Rockville Subdivision Ordinance;

WHEREAS, the expansion of the Existing Lots will bring the Existing Lots closer to conformity with the Rockville Subdivision Ordinance;

WHEREAS, the City of Rockville approved the Bloch Addition on the condition that all lots are restricted from additional development and are attached to adjoining lots under the same ownership;

WHEREAS, David A. Scrabek, a single adult, hereinafter referred to as "Scrabek," is the fee owner of Lot 1, Block 1, Bloch Addition and Lot 4, Block 1, Stearns County Boundary Commission Plat Number 1;

WHEREAS, Philip G. Mueller and Shamba L. Mueller, husband and wife, hereinafter referred to as "Mueller," are the fee owners of Lot 2, Block 1, Bloch Addition and Lot 5, Block 1, Stearns County Boundary Commission Plat Number 1;

WHEREAS, Kurt D. Saxton and Anita F. Saxton, husband and wife, hereinafter referred to as "Saxton," are the fee owners of Lot 3, Block 1, Bloch Addition and Lot 6, Block 1, Stearns County Boundary Commission Plat Number 1;

WHEREAS, Timothy J. Walter and Carol G. Walter, husband and wife, hereinafter referred to as "Walter," are the fee owners of Lot 5, Block 1, Bloch Addition and Lot 11, Block 1, Stearns County Boundary Commission Plat Number 1;

WHEREAS, Clarence J. Bloch, as Trustee of the Clarence J. Bloch and Mary Ann Bloch Revocable Trust Agreement dated June 28, 2002, hereinafter referred to as "Bloch Trust," is the fee owner of Lots 6 and 7, Block 1, Bloch Addition and Lot 12, Block 1, Stearns County Boundary Commission Plat Number 1;

WHEREAS, Lots 4 and 7, Bloch Addition will not be attached to any other contiguous lots; and

WHEREAS, the Declarants are responsible for preparing and executing all conveyance documents to effect the attachments.

NOW, THEREFORE, the Declarants make the following declaration of restrictions. The restrictions described below shall run with the land and shall be binding on all parties and all persons claiming under them:

1. The lots created by the Bloch Addition Plat are attached to contiguous lots in the Stearns County Boundary Commission Plat Number 1 and are attached as follows:
 - a. Lot 1, Block 1, Bloch Addition is attached to Lot 4, Block 1, Stearns County Boundary Commission Plat Number 1.
 - b. Lot 2, Block 1, Bloch Addition is attached to Lot 5, Block 1, Stearns County Boundary Commission Plat Number 1.
 - c. Lot 3, Block 1, Bloch Addition is attached to Lot 6, Block 1, Stearns County Boundary Commission Plat Number 1.
 - d. Lot 5, Block 1, Bloch Addition is attached to Lot 11, Block 1, Stearns County Boundary Commission Plat Number 1.

- e. Lot 6, Block 1, Bloch Addition is attached to Lot 12, Block 1, Stearns County Boundary Commission Plat Number 1.
2. Each lot being attached, together with the lot receiving the attachment as described above, shall not be further subdivided unless platted to meet all provisions of the City of Rockville Subdivision Ordinance or successor ordinance.
3. No additional building entitlements are permitted in the Bloch Addition Plat unless re-platted to meet all provisions of the City of Rockville Subdivision Ordinance or successor ordinance.
4. This Declaration shall remain in effect unless the property described herein is platted to meet all provisions of the City of Rockville Subdivision Ordinance or successor ordinances.

IN WITNESS WHEREOF, the Declarants have executed this Declaration on the date and year above written.

Rena Weber reported the following regarding the Park land dedication fees:

- a) It does not meet any of the criteria for requiring park land dedication in our ordinance – too small 6.07 acres.
- b) It is not in a master park plan – we have none
- c) It is not required in the comp plan
- d) The result is that we should discuss the cash in lieu of land dedication:
 1800 square feet of land per lot is required for each Single Family lot
 1800 x 6 lots = 10,800 square feet
 10,800 divided by 43,560 = .25 acres x \$11,646.59 per acre is = **\$2,911.65**
 \$58,000est. value divided by 4.98 acres = \$11,646.59

Sam DeLeo explained that this is not the same as a normal plat. We are not creating a housing site so the park land dedication fee should not be assessed.

Sam DeLeo questioned does the City assess Park Land Dedication for Outlots? No

Sam DeLeo explained that if we change the Lots from Lot 1- Lot 6 to Outlot A – Outlot F. They would be called Outlots, they would be non-buildable lots and then we could get away from the park land dedication fees. If they would want to build on the lots they would need to re-plate because you can't build on an Outlot, then the park land dedication can be access at that time.

Mayor Hagen would not like to see the lake side property owners use this land for impervious surface calculations to create a bigger building on the lakeside.

Sam DeLeo suggested adding some language to declaration of restriction so it gets recorded.

Member Palmer not sure she agrees with the parkland dedication.

Rena Weber will check with Attorney on Outlots and parkland dedication fees.

Member Volkmuth stated we will pull out the parkland dedication fees if not required.

Motion by Member Volkmuth, second by Member Palmer, to assess the park land dedication for \$2,911.65, to allow the re-platting and insure the lots stay together as Lot 1 goes with Lot 4, Lot 2 goes with Lot 5, Lot 3 goes with Lot 6, Lot 4 stay on its own, Lot 5 goes with Lot 11, Lot 6 goes with Lot 12 and to add language in the declaration of restriction not allowing impervious surface calculation to create a bigger structure on lakeside.

AYES: Hagen, Palmer, Schmitt, Volkmuth & Willenbring

NAYS: Koerber, Becker

Motion passed on a 5 to 2 vote.

Member Willenbring would like for the parkland dedication be on the next agenda.

XCEL ENERGY FRANCHISE AGREEMENT – Rena Weber reported this is not ready for approval and asked that members keep their paperwork until the January meeting.

CRANE PUMP RESPONSE – Rena Weber reported that she had sent a letter to Patrick Rienks, Vice President Sales and Marketing – Crane Pumps regarding the circuit breaker problem on the grinder station. Mr. Rienks called and left a message stating they were not responsible as they built the control boxes according to specifications from our engineer. A written letter to this is forthcoming.

Member Palmer would like to see the cost be split 3 ways and not pursue legal.

Mayor Hagen asked that we get a written response from Crane Pumps and to send letters to Crane Pumps and Bonestroo to absorb a third of the cost.

REQUEST DELETION OF LATE FEES – Two request for deletion of late fees on water/sewer bills was received:

25762 Lake Road	\$346.85	
125 Broadway Street East	\$597.36	Certify \$1404.75

Motion by Member Becker, second by Member Willenbring, to deny the request to reduce the late fees.

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

Motion passed on a 7 to 0 vote.

COMMITTEE REPORTS

MAYOR - Nothing

PERSONNEL – Chair Randy Volkmuth reported on the following:

FIRE CHIEF STATUS – Met with Jeff Howe – Can you hold two positions at once. Jeff Howe may not want to hold onto the position. No motions needed at the present.

Member Palmer has concerns on how it would work if Jeff is on the council and also on the Fire Department.

Member Volkmuth explained we should have something in writing (policy) that if 2 positions would be held that that person could not vote on anything that affects the Fire Department.

Rena Weber will contact Jeanette Bach (League of Minnesota Cities) with all the concerns.

Mayor Hagen would like this to be brought back at the December meeting.

ADMINISTRATOR/CLERK CONTRACT RENEWAL

Chair Randy Volkmuth reported on the following:

- ◆ Five year contract
- ◆ Pretty standard in cities
- ◆ Change over want some stability

The consent of the Personnel Committee was:

- A. Contract is warranted
- B. Rena is doing a very good job.

Motion by Member Palmer, second by Member Willenbring, to approve another five years contract for Rena Weber that goes from November 21st, 2010 - November 20th, 2015.

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

RTCB – Rena Weber reported that the BNSF has sent us a map of the area they plan to abandon which runs from Cold Spring up to the Mill Creek in Rockville. This is huge and will make a big difference in the construction cost of the Rocori Trail.

ADMINISTRATOR REPORT

AUDITOR/ATTORNEY APPOINTMENTS – Rena Weber reported that the three year contact with ABDO is now up and has sent out a request for bids for the 2010, 2011, 2012 audits. Bids are due 12/2/10 and interview/reviews will be held the following week.

Member Volkmuth stated that he wouldn't feel comfortable with changing attorneys for \$4000. Attorneys – no action has been taken.

PLANNING COMMISSION APPOINTMENT – Rena Weber reported that one position is up for re-appointment and the process is to seek applications for this position.

ADDITIONS TO THE AGENDA

DAN HANSEN – Rena Weber reported that Dan Hansen requested to relinquish the letter of credit. He restored everything back other than a dirt pile that is in the middle. He would like to sell the dirt.

Member Palmer would like to see something done with the pile of dirt.

Member Volkmuth would like to see it seeded over and see that it is.

Motion by Member Palmer, second by Member Willenbring, to give Dan Hansen to the end of April or we will renew the letter of credit for \$5000.00.

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

R-10 – Mayor Hagen explained that there was much confusion on the A-10 where the Planning Commission feels that a person can come in and plat to a PUD. He thinks the PUD calls for transfer of development rights and if we allow that and end up with more than we want you to PUD.

Planning Commission is looking for direction on R-10 (large lot Residential Development). Maybe put restrictions on it, such as we would only consider re-platting AG-40 lots if:

- ◆ Not potential for Agricultural use
- ◆ Heavy Tree, swamp
- ◆ Roads (would be private)
- ◆ If water/sewer came within 1000' may require you to hook up.

Member Volkmuth we would need some oversight on the R-10, it is good to say we have some areas of city that are not farmable, if you own 40 acres and 20 acres are unbuildable.

Mayor Hagen explained that he think our goal is to maintain as much agricultural characters

Member Palmer explained that we don't want leap frog development, maybe have cluster requirement – minimize infrastructure and preserve open space. We have to be careful that we don't put a farmer out of business just because we allow the sub-division to occur.

Member Palmer would like the Planning Commission to do some home work:

- ◆ How would it impact farm land?
- ◆ 5 - 10 acres minimum
- ◆ Totally unusable farmland, No tillable farmland
- ◆ No new public roads
- ◆ City Services (Water/sewer within 1000' may require you to hook up)
- ◆ We would not want someone to develop highly erodible land
- ◆ Consider the impact on the surrounding farm land

Member Palmer questioned the recent ruling on granting variances and that we should be really looking at the hardship when reviewing variances. It would be worth the time to explore how hardship interpretation is viewed and maybe have someone from the league should speak on this.

OPEN FORUM

Tudie Hermanutz - 211 1st Street West – wanted to know if there is something going on with the hockey rinks. Rena Weber reported that they took the tar out and is fixing some of the boards.

Think about why you are giving variances – maybe you need to change the ordinance.

Mike Hofmann – EMS Director wants to talk to Xcel about the franchise and send a stern letter on suggesting they make it easier in how they handle emergency situations. With a major power outage, dangerous situation he found it unacceptable on how they handled the situation in the wind storm. Rena Weber reported that she already had spoken to Karen Young about this situation and had Rodney Schaefer (Fire Chief) called her to explain how Xcel handled the emergency situations. Karen was surprised on how their dispatcher handled it and she must have made changes on their end.

Don Simon 600 Othmar Lane – would like to add to what Mike said, if the Rockville Fire Department had not been out there someone could have been electrocuted. Rena Weber reported the City had already sent them a bill.

A-10 basically if they split off 5 to 10 acres (non farmland) unproductive can be handled by administrative plat but maybe qualified minor subdivision.

Jerry Schmitt & he drove the city roads – may have to add gravel to the roads. Grade the roads more regularly.

ADJOURNMENT – Motion by Member Volkmuth, second by Member Koerber, to adjourn the meeting at 8:03 p.m. Motion carried.

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

**JEFF HAGEN
MAYOR**

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