

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, MAY 3, 2006 – 7:00 P.M. – JOHN CLARK ELEMENTARY MEDIA CENTER

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: Jeff Hagen arrived at 7:04 p.m.

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Greg Stang, Assistant Fire Chief Bob Froehling, EMS Director Mike Hofmann, and Attorneys David Meyer & James Mogan.

Planning Commission Members present were: Jerry Bechtold & Toni Honer.

Others present were: John Kirscher, Liza Fuchs, Tom Van Lith, Jennifer Schneider, Lori Gross, Harold Rosenow, Cheryl Lommel, Tудie Hermanutz, Kim Henkemeyer, Kathleen Stanger, Aaron Cheeley, Dave Volkmuth, Mike and JoAnn VanderWeyst, Tim Massmann, Duane Willenbring, Kathleen Stanger, Rick Hansen & Ev Balko.

ADDITIONS TO THE AGENDA: *Motion by Member Ahles, second by Member Simon, 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.

BOUNDARY COMMISSION UPDATE – Attorney David Meyers was present to update the council stating this was the biggest Boundary Commission plat filed in the State of Minnesota. There was a lawsuit between two parties that has been resolved. David Meyer further explained the road width issue with Hubert Lane and that in some areas the road is a little off. This will be a judicial plat. David indicated that he will be notifying residents within 30 days of the official ruling. This will be done by David sending out a letter of summons as opposed to using a process server, which will be a lot cheaper.

Mayor Herberg asked if with this new plat the old markers will go away. David Meyer indicated that judicial markers will be placed as part of the process. David further explained that we will need to vacate a portion of the roadway down at the end of Hubert Lane. This will happen under a different law.

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

- a) ***Approve minutes of 04/19/06 & 04/26/06***
 - b) ***Approve Treasurer's Report of 05/03/06***
 - c) ***Approve List of Bills and Additions of 05/03/06***
- | | |
|--|---------------------------|
| <i>Accounts Payable CK #007869 to #007904</i> | <i>\$27,149.92</i> |
| <i>Payroll CK #002365 to 002373</i> | <i>5,631.53</i> |

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

BOARD/STAFF REPORTS

FIRE DEPARTMENT – There was nothing to report from the Fire Chief.

MAINTENANCE DEPARTMENT- Public Works Director Greg Stang presented the following:
STREET PATCHING REQUEST - Greg Stang presented a request for council action to hire LM Services to do air injection patching at \$1600 for one day of work. Greg Stang requested approval to hire them for 2 days work @ \$3200.

Member Hagen asked if Greg surveyed the whole city and will this be enough.

Member Lommel asked if the Rausch Lake Road blow out was included. Greg indicated that it was included.

Member Ahles questioned if the prep work was done by them or Greg. Greg Stang reported that they do the prep work which is kind of like seal coating.

Motion by Member Hagen, second by Mayor Herberg, to approve expenditures up to \$3200 but if Greg Stang finds he needs more to complete the project (\$1000 or less) additional approval is given.

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

ROCK FEST – Kathleen Stanger reminded all that we are getting closer to the event. The next meeting 5/10/06 – 7:00 p.m. – upstairs city hall with meetings every other week until the event. They are promoting the event by selling buttons which will get people into certain events. In addition a meat and gift certificate raffle will be held at Stoney's through the Lion's Club.

Liza Fuchs was present to request approval for a motorcycle bike show event on July 8th which will be in front of Stoney's Bar – from Cedar Street west to Mill Street. The Donnie Smith tour is a ride in event from the cities. Liza indicated this will not be an expense for the festival and that all portable toilets and garbage will be paid for by Stoney's. Liza Fuchs requested approval to block off the north half portion of Broadway Street between 1 p.m. to 5:30 p.m. at the latest so that they are gone before the parade. In regards to extra police Liza stated she will have 30 extra security people on that day. Liza stated "This is not the Hell's Angels, but rather people who own custom choppers worth \$80,000." They will ride them in between 1 p.m. & 3 p.m. and then judging will occur from 3 p.m. to 5 p.m. "There will be no burn outs".

Liza Fuchs requested approval to sell 3.2 beer outside of which a portion is given back to the festival. Liza Fuchs also requested approval for a beer permit for the day event at the ball park. In addition she will need approval from the Stearns County for blocking off a portion of the County Road 82 (Broadway Street).

Motion by Mayor Herberg, second by Member Hagen, to approve the Donnie Smith event and closure of the north half of Broadway Street between 1:00 p.m. and 5:30 p.m. on 7/8/06 pending approval from Stearns County Highway Department.

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

Motion by Mayor Herberg, second by Member Ahles, to approve the one day sale of 3.2 non-intoxicating malt liquor on 7/8/06 at both the Community Ball park and outside of Stoney's Bar pending proper proof of insurance is provided.

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

PLANNING COMMISSION – Jerry Bechtold reported on the following:

BELLEDEW LANE FINAL PLAT – Jerry Bechtold reported that the Planning Commission held a public hearing to consider approval of a final plat request from Jennifer Schneider and this was approved at the 4/25/06 meeting. The legal description of the property:

BELLEDEW LANE ACRES

That part of the South Ten acres of the Northwest Quarter of the Southeast Quarter (NW1/4 SE1/4) and Government Lot Numbered Two (2); and the South One-Half of the Southeast Quarter (S1/2 SE1/4) in Section Ten (10), Township One Hundred Twenty-three (123) North, Range Twenty-nine (29) West, Stearns County, Minnesota, lying northerly of the following described line; Commencing at the South Quarter Corner of said Section 10, thence North 89 degrees 59 minutes 59 seconds East on an assumed bearing along the South line of said Southwest Quarter of the Southeast Quarter 433.79 feet; thence North 00 degrees 00 minutes 01 seconds West 99.21 feet to the centerline of county Road 47 to a point herein referred to as "Point A"; thence North 76 degrees 53 minutes 28 seconds West, along said center line to the East line of the West 412.50 feet of said Southwest Quarter of the Southeast Quarter, thence South 76 degrees 53 minutes 28 seconds East, along said center line to the aforementioned "Point A"; thence North 40 degrees 05 minutes 26 seconds East, along the center line of a township road 480.52 feet; thence Northeasterly 451.70 feet, along the last described central line and along a tangential curve concave to the Northwest, having a radius of 1832.24 feet and a central angle of 14 degrees 07 minutes 30 seconds; thence North 25 degrees 57 minutes 56

seconds East, tangent to said curve and along the last described center line 85.00 feet, to the point of beginning of said described line; thence South 89 degrees 59 minutes 59 seconds West to the intersection with the West line of said Southwest Quarter of the Southeast Quarter and there terminating.

NEW LEGAL DESCRIPTION: LOT 1, BLOCK 1, BELLEDREW LANE ACRES

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

RESOLUTION NO. 2006-14A

RESOLUTION APPROVING A FINAL PLAT TO BE KNOWN AS BELLEDREW LANE ACRES.

WHEREAS, Jay & Jennifer Schneider have submitted a final plat to the council for approval, and;

WHEREAS, a public hearing on the final plat was held before the Planning Commission who has recommended approval, and;

WHEREAS, The Administrator/Clerk reported that proper notification had been given.

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

1. Said final plat to be known as Belledrew Lane Acres is hereby approved.

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

Motion passed on a 7 to 0 vote.

SAMUEL'S SEASONS PRELIMINARY PLAT – Chair Bechtold reported that the Planning Commission held a public hearing on 4/25/06 to consider approval of a preliminary plat to be known as Samuel's Seasons requested by Tom Van Lith. Said plat has a legal description of:

SAMUEL'S SEASONS

Said Plat has a legal description of: Outlot C, Pleasant Lake Heights, Plat 2

NEW LEGAL DESCRIPTION: Lots 1 through 18, Block 1

Lots 1 through 4, Block 2

Lots 1 & 2, Block 3

Lots 1, Block 4

Lot 1 & 2, Block 5

Chair Bechtold reported that 8 individuals presented testimony in regards to lack of storm water run off, lack of city water, and lack of potable water. It was determined that another EAW was not necessary. The Planning Commission closed the public hearing and determined:

- This plat is not in the city water zone
- Storm Water on-site service is not found
- Storm water moves off of this site to other lots
- Lot sizes do meet R-1 if you include the holding ponds on the lots.

The Planning Commission would like to see larger lots and that Mr. Van Lith resolve the potable water issue. The request was denied by the Planning Commission based on these concerns.

Motion by Member Lommel, second by Member Hagen, to deny the preliminary plat known as Samuel's Seasons based upon the recommendations of the Planning Commission.

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

Motion passed on a 7 to 0 vote.

Attorney Jim Mogen indicated that requiring larger lots was justified by the fact that less wells would require less pull on the aquifer.

Member Ahles stated the major concern is potable water so if Mr. Van Lith makes bigger lots and finds a good source of water then okay.

Mayor Herberg indicated that Mr. Van Lith has attended meetings with the Street Committee and was informed that he needs to find a good water source that does not affect any other water source.

PLEASANT ESTATES PLAT 2 FINAL PLAT – Chair Jerry Bechtold reported this was withdrawn by the developer so no action was taken.

LETTER FROM ROGER SCHMIDT – Rena Weber read the letter addressed to Mayor Herberg and the City Council (a copy of which is on file in the office of the Administrator/Clerk).

Mayor Herberg reported that 3 members are looking to quit the Planning Commission if something is not done with member Peck. The proper procedure to handle this matter would be at the open forum as this is an appointed position. This is not a hired employee. Attorney Mogan understands this is a political issue.

Chair Jerry Bechtold indicated that the letter has caught him by surprise, but he is more tolerant than some members, however, it has been a burden.

Member Hagen indicated he was not surprised, and when she was put in the Secretary position this gave her certain control, but that, too, has to be controlled.

Mayor Herberg has talked to her on numerous occasions.

Member Ahles stated that she probably is right on environmental issues, but she keeps bringing up the same issue every meeting stating the city council never listens to the Planning Commission.

Member Simon indicated that she gets too carried away and it is always the same old thing.

Motion by Member Simon, second by Member Lommel, to remove Linda Peck from the Planning Commission effective immediately.

Member Hagen asked if she been warned. Mayor Herberg reported that he and the Administrator had talked to her on two occasions.

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

Motion passed on a 7 to 0 vote.

Motion by Member Hagen, second by Member Lommel, to authorize the Administrator/Clerk to advertise for the position.

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

Motion passed on a 7 to 0 vote.

JOHN KIRSCHER – Mr. Kirscher was present at the meeting with four questions for the council. Mr. Kirscher purchased the McNamara property on Hubert Lane which is located adjacent to his property. He has requested the two lots be joined as one through the Boundary Commission platting process.

1. Mr. Kirscher indicated that he needed to restate some of the things he said to the Boundary Commission in that he would surrender the 34' of lake front to Johannes once the Boundary Commission platting is done. He will combine both lots and use the address of the one he currently owns.
2. Mr. Kirscher wants to use only one grinder station, but he still needs a new well. Member Lommel indicated that Mr. Kirscher needs to show us documentation that he has combined the lots and will have only one structure. Mr. Kirscher can tap into the grinder station of McNamara's. Mayor Herberg stated that if he can legally combine the lots to have one lot okay, but abandonment of one well has to take place. It is okay to hook up to the good well.
3. Mr. Kirscher further requested deletion of the Sewer Special Assessment for the Kirscher lot and reimbursement for the total paid to date which was \$1000. His lawyer told him that it goes away and the benefits are that the city is going to get a grinder.

Motion by Mayor Herberg, second by Member Ahles, to have Mr. Kirscher meet with the Street Committing on 5/8/06 – 3:00 p.m. to come up with a plan for his assessment and the well issue.

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

Motion passed on a 7 to 0 vote.

Member Hagen suggested the city get a cost for running of the water line, and find out how much did he actually pay in assessments.

4. Mr. Kirscher stated that in regards to the triangle piece in that he will surrender 34' to Johannes he has paid taxes for 8 years at \$4.00 per year and would like to be reimbursed. It was determined that the City can't do anything about this = \$32.00 total.

OLD BUSINESS

GAMBLING LICENSE ORDINANCE UPDATE – Rena Weber reported that the ordinance does reflect the contiguous boundaries and also suggested including Cold Spring and Richmond in the trade area as we are in the Rocori School District.

Mayor Herberg asked if we can amend the ordinance Section 2 C to say that 30% of the members have to live in the city limits and eliminate “or located within the Rockville trade area”. Mayor Herberg indicated that there are Lion’s members who are concerned that the money will not make it back to the city. In regards to The Bayou, the Lion’s turned it down due to the problems they had with the owner. Kim Henkemeyer said that is not true as there were problems both internally and also with her. They don’t have somebody to volunteer their time to staff the bar.

Member Karls questioned the issue of missing money. Kim said this was not her fault either. Scott Kelm was present at the meeting to report that they were still very much interested in obtaining the license.

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

RESOLUTION NO. 2006-15

RESOLUTION APPROVING A GAMBLING LICENSE

WHEREAS, Boxers Workout Gym, Inc. has requested a gambling license at: The Bayou, 201 Broadway Street East, Rockville, MN 56369 and;

WHEREAS, No objections were raised.

NOW, THEREFORE BE IT RESOLVED by the City Council of Rockville, Stearns County, Minnesota:

1. **Approval of said license is hereby granted.**

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

AYES: Ahles, Hagen, Lommel, Simon & Simones

NAYS: Herberg & Karls

Motion passed on a 5 to 2 vote.

Motion by Mayor Herberg, second by Member Lommel, to schedule a public hearing for 6/7/06 at 7:30 p.m. to amend the gambling ordinance as discussed.

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

Motion passed on a 7 to 0 vote.

RENEWAL OF LIQUOR LICENSES – Rena Weber reported that approval of the annual liquor license renewal should be done as there were no problems indicated by the Sheriff’s Department.

Motion by Member Ahles, second by Mayor Herberg, to approve the renewal of the liquor licenses as presented pending proper insurance and State of MN approvals being given:

	ON-SALE	OFF-SALE	SUNDAY
The Bayou	X	X	X
Stoney’s Bar	X	X	
B’S Liquor of Rockville		X	
Grandview Resort	X	X	X
400 Supper Club	X	X	X

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

ABSTAINING: Hagen

Motion passed on a 6 to 0 vote.

ADDITIONS TO THE AGENDA

TRANSFER OF ROCK STOP CIGARETTE LICENSE TO B’S LIQUOR – *Motion by Mayor Herberg, second by Member Karls, to approve the transfer of the cigarette license as requested for 2006.*

AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Lommel, Simon, & Simones

Motion passed on a 7 to 0 vote.

ROCORI TRAIL COMMITTEE LETTER – Rena Weber read the letter dated 5/3/06 from Larry Lahr representing the Rocori Trail Committee asking for inclusion of a bike trail on County Road 82. Discussion was held regarding the width of the road. The Street Committee felt it was not a problem.

Member Ahles indicated we should keep the traffic lanes at 14' and parking lanes at 12' to equal 52".

Member Simones stated that a designated bike lane would be safer for the biker.

Motion by Mayor Herberg, second by Member Simones, to ask Mitch Anderson, Stearns County Highway Engineer, to reconsider the design of County Road 82 to include a bike path as suggested by the Rocori Trail Committee.

AYES: Hagen, Herberg, Karls, Lommel & Simones

NAYS: Ahles & Simon

Motion passed on a 5 to 2 vote.

SHIRTS FOR BOARDS/COMMITTEES – Rena Weber reported that the Planning Commission is interested in purchasing shirts, but wanted to know what the price would be. Full-time city staff were approved at ½ the cost of one shirt per year.

Motion by Member Lommel, second by Member Simones, to approve the purchase of city logo shirts by all board/commission members with them paying at full price.

AFFIRMATIVE VOTES: Ahles, Hagen, Herberg, Karls, Lommel, Simon, & Simones

Motion passed on a 7 to 0 vote.

FIRE HALL PARKING LOT – Assistant Fire Chief Bob Froehling was present at the meeting to inform the council of the tarring issue for the new fire hall parking lot. Bob Froehling reported that the tarring was eliminated from the project which cost \$49,500. Without blacktop they have to drive over Class II and then onto the epoxy floor which will cause wear and tear on that. Mid-MN Hotmix will give the city a \$7800 credit which would bring the numbers down to \$41,700. The strip by city hall would cost \$2925.

Rena Weber reported that the Fire Department has a designated fire department operation fund with \$48,000 in it to pay for this. Rena Weber indicated that the EDA has been very diligent about the expenses with both structures and indicated further that the EDA has earned \$49,000 in interest from the bonds thus far. If there is money available from the EDA funds they can refund it back to the general fund.

Motion by Mayor Herberg, second by Member Karls, to authorize payment to complete the tarring of the fire hall parking in the amount of \$41,700 from the General Fund designated FD operation fund which is to be repaid should the EDA have funds available upon completion of the projects.

Duane Willenbring voiced concern that the only technical question he has is does this affect fire and health safety if we borrow from operating funds for the Fire Department. Mayor Herberg indicated that it does not. Duane Willenbring went on record stating that if there is money left over from the construction funds, this is the most logical place to spend the money.

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

NAYS: Hagen

Motion passed by a 6 to 1 vote.

It was determined that the EDA still needs to designate approval and it was determined that a special meeting of the EDA would follow the council meeting tonight.

COMMITTEE REPORTS

MAYOR'S REPORT – Mayor Herberg reported that Taryl Clark was in town last Saturday. The important item is that sales tax reimbursement was being considered.

DOGS – Mayor Herberg stated that we keep having issues and urged people to take care of their dogs.

STREET COMMITTEE – Chair Don Simon reported on the following:

- Kurt Olson – referred to engineer
- Agate Beach Road – fix this spring
- Lena Lane tarring – this will be investigated thoroughly and they will talk to neighbors about a resolution

SEWER PROJECT –

- 400 Club – another smoke test needs to occur
- Telemetry – is not working and BWK has been told to get it to work
- Hydro Logical bill – at this point it has been determined to be city cost
- Peter Legus – the committee will investigate costs
- John Kirscher – will meet with him on 5/8/06
- Meter at PIP lift station – lightening strike
- Grand Lake lift station – resolve by 6/1/06
- Wade Skaja – deduct \$1000 from Barbarossa last payment
- Lake Road – re-seed
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ADMINISTRATOR/CLERK REPORT

NIMS TRAINING – Rena Weber reminded the Council that IS 100 & IS 200 NIMS training is mandatory for all council members to attend. Mike Hofmann indicated that the training has been scheduled for the 4th Mondays in May & June – 7:00 p.m. at the Parish Center. *(It should be noted that the May meeting was later cancelled and re-scheduled for July 10th).*

QUESTIONS FOR ATTORNEYS – Rena Weber reminded the council that a sub-committee was to gather and draft questions for attorneys. It was determined that a meeting would be held on 5/8/06 at 7:00 – City Hall to complete this task.

OPEN FORUM

Tudie Hermanutz - 211 1st St West, voiced concern that the Railroad Crossing on Mill Street North and of CR 139 is rough and in need of repair. It was determined that this would be a County repair.

Duane Willenbring – 25123 County Road 139, questioned board members insurance. Rena Weber reported that members are covered under the errors & omissions insurance.

Fire Hall Road off of County Road 47 –Duane Willenbring questioned the curvilinear entrance into the Fire Hall and also if it is off grade. Mayor Herberg reported that Scott Hedlund had viewed the site and provided a memo on his thoughts.

ADJOURNMENT – *Motion by Member Simon, second by Member Lommel, to adjourn the meeting at 9:25 p.m. Motion carried unanimously.*

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

BRIAN HERBERG
MAYOR

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