

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,
DECEMBER 5, 2007 - 6:00 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 Jeff Hagen, Susan Palmer 6:03, Jim Pflapsen, Don Simon & Randy Volkmuth. Absent: Vern Ahles.

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

Others present were: Tудie Hermanutz, Vince & Audrey Schaefer, Bonnie Ring, Aaron Cheeley, Edmond & Mary Jane Kalla, Jackie & Earl Pierskalla, Jerry Schmitt, Joe & Sharon Sponheim, Duane Willenbring, Ray Simon, Bob Froehling, Judy Neu, Kathleen Stanger, Dave Volkmuth, Eugene Merten, & Dave Regnier.

ADDITION TO THE AGENDA – Motion by Member Volkmuth, second by Member Simon, to approve the addition to the agenda as presented for discussion purposes.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

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

- a) **Approve minutes of 11/14/07**
- b) **Approve Treasurer’s Report of 12/05/07**
- c) **Approve List of Bills and Additions of 12/05/07**

Accounts Payable Bills CK #009700 to 009747	\$31,313.48
Payroll CK #002899 to 002907	6,461.11
EFT #000125	396.80
- d) **Approve Tobacco License Renewals – 2008**
- e) **Approve St. Augusta Blizzard Busters raffle 2/2/08 – 400 Club**

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

BOARD/STAFF REPORT

FIRE DEPARTMENT – REQUEST FOR COUNCIL ACTION

RESCUE VAN PURCHASE – Finance Committee member Randy Volkmuth reported that the Fire Chief met with the Finance Committee on 11/27/07 where this request was reviewed. This is a repairable vehicle that will be inspected and is to be paid for out of the designated fund. The Finance Committee recommends approval of the purchase.

Motion by Member Simon, second by Member Volkmuth, to approve the purchase of a used rescue truck from CarCo Automotive, Inc. in the amount of \$45,623.00.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

PLANNING COMMISSION – Rena Weber reported that the Planning Commission has not met as a whole commission since the last meeting. Two sub-committees have met, however, and they are working on mapping areas for development according to the Randall Arendt theory.

The Commission will discuss the proposed ordinance for park land dedication at their 12/10/07 meeting and it is recommended that a public hearing be scheduled before year end.

Motion by Member Volkmuth, second by Member Simon, to schedule a public hearing on 12/19/07 – 7:00 p.m. for approval of proposed Ordinance No. 2007-44 amending park dedication cash in-lieu calculations.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.

NEW BUSINESS

CONCERNED CITIZENS OF ROCKVILLE – Sharon Sponheim stated that she was representing the concerned citizens of Rockville. Ms. Sponheim stated that looking back over the year the Special Assessment Policy Committee had 11 members who were on it and a large number of people who contested the policy. She further indicated that the council would be picking the members to serve on a new committee and she asked that the council be open minded and listen to what she has to say. She referred to the minutes of the assessment committee for the last year:

Member Pflapsen stated he was concerned, but that maybe someone would take the ball and run with it.

Member Simon stated in July that he can't see assessing on county roads and there is no way we can assess.

Ms. Palmer said that if we are going to make a policy they don't want to change it from time to time. It is a big deal.

Member Volkmuth indicated to Ms. Sponheim that they have full time jobs and they have to trust people.

Vern Ahles did not say much.

Mr. Hagen put a letter in everybody's mailbox that said this was a sustainable policy, but in the very next sentence he said it is not a sustainable policy.

She requested the council consider taking everybody that applied which is ½ of 1% of the population.

From the National League of Cities – 2007 a report states that using large scale, open minded deliberations where citizens consider a wide range of options results in public decisions that is more fair and more informed and publicly supported.

Jerry Bechtold suggested that a private consultant be used to facilitate discussion and monitor the action.

BOARD/STAFF REPORT

ROCK FEST – Kathleen Stanger reported on:

- Update – The committee has changed the Rock Fest date to 8/22/08 to 8/24/08
- Western theme "Cowtacular Days" where they will be roping cows, tossing cow pies, etc.
- The button will read "Expose yourself to Rock Fest"
- Looking for a pageant coordinator – Peggy Adamson has other commitments
- Spaghetti dinner raised \$100 and they hope to have two more dinners in January
- Teen dance will be held which is a sweetheart dance with pizza for grades 7 thru 9 and is open to everybody. Not sure where it will be held.
- Dec 26th 7:10 – next meeting
- Survey in the newsletter –
- Mission statement and goals – Kathleen restated these

NEW BUSINESS

ESTABLISH SPECIAL ASSESSMENT POLICY COMMITTEE

CITIZEN PARTICIPATION - Mayor Herberg reported that 16 people applied and there is representation from:

Grand Lake, Pleasant Lake, and north of town, Downtown, CR 8, rural resident, farmer, seasonal cabin owner that lives outside of the city.

Mayor Herberg liked the idea of choosing all to serve on the committee.

Member Volkmuth asked how you facilitate that.

Mayor Herberg stated that a definite strong chair is needed and that he would volunteer to serve as chair.

Member Pflapsen stated Jerry Bechtold had a good suggestion, but we would need to budget for a moderator especially if you are going to end up with this many people. This is too large a group which could be counter productive and suggested they pick 3 people from each area of the city, plus council, consultant and staff.

Member Volkmuth stated that he sees a lot of representation from County Road 8 & 82 and he feels they can push whichever way they want. They will come back to the council and if we don't choose what they bring then we look bad so we may be setting ourselves up for failure.

Member Pflapsen stated that we need to be careful of having too many people from one area. He talked to Al Kern, a retired CPA, who read through the assessment policy and at the end of the day he said this is a good program. He would be uncomfortable with using this many people who are entrenched in the situation.

Mayor Herberg stated that he has talked to people on the list and can say that they are intelligent people. They have one thing in mind which is to find a policy that is fair. Aside from them trying to stop this he does not see that happening.

Member Palmer stated that we did talk about equal representation from all areas of the city. She would like to develop a committee that really does represent the city. The larger a committee gets the less efficient it is to get work done.

Member Pflapsen suggested a committee of 6 to 9 citizens plus 2 council, and staff.

Member Volkmuth stated that we discussed the way it was to be set up. We need stick to it because we tend to evolve and change things. He still wants to see representation from all areas of the city and not let one area control it.

Member Simon indicated that he looked at the list and it represents a good portion of the city. The more people on it gets complicated and delays occur.

Member Hagen stated you are going to get the input from those areas by having one spokesperson or it gets complicated. Between meetings people will be talking to other people and the spokesperson will bring it back to the committee level.

Mayor Herberg suggested they narrow down the selection to:

Ag (2) Dave Regnier & Gary Gillitzer (by way of putting names in a hat)

Grand Lake (1) – Don Landwehr

Pleasant Lake (1) Dave Volkmuth

County Road 8 – (1) – Joe Sponheim

County Road 82 – (1) – Bonnie Ring

Member Palmer suggested they add people from the core city:

Core city (2) Tудie Hermanutz & Duane Willenbring

Motion by Member Volkmuth, second by Member Palmer to approve the appointment of the above people to serve as citizen participants in the new Special Assessment Policy Committee.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

COUNCIL MEMBERS – Mayor Herberg volunteered to be on the committee.

Rena Weber reported that Member Ahles was not on the original committee.

Motion by Mayor Herberg, second by Member Simon, to nominate Member Ahles to serve on this committee.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

Motion by Member Pflapsen, second by Member Volkmuth, to appoint Mayor Herberg to serve on this board.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

Member Palmer indicated that we need to bring David Drown back in to get the full impact. They should hear the financial impact on the city.

Discussion was held regarding which of the remaining members would also serve and all cited commitments.

Motion by Member Pflapsen, second by Member Volkmuth, to approve the Special Assessment Committee with 2 council members instead of 3.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

Jim Mogen suggested to the council that the committee will need some direction on the scope such as to a time frame of reconstruction of road projects (expected life of roads).

Mayor Herberg suggested we use two tools: Capital Improvement Plan and the engineer's opinion of expected life expectancy of a road.

Member Palmer indicated the issue is what are we going to do when one road is done, whenever it happens, and how are we going to pay for it. If we do one, how are we going to pay for it?

Member Volkmuth suggested that we put some time frame on it. A reasonable amount of time is 3 to 6 months.

Mayor Herberg stated he would like to schedule one meeting yet this month.

PUBLIC HEARING – ORDINANCES 2007-41, 42 & 43

Attorney Jim Mogen gave a summary of all proposed ordinances:

Ordinance No. 2007-41 – Jim Mogen stated this was an issue regarding accessory structures where a principal structure has been torn down and a garage was used for living quarters. This would not continue unless under an IUP which lasts for up to one year, but people can get 2 IUP'S. This does not affect agricultural uses.

Section 3 – kennels become a permitted use.

Member Pflapsen questioned Sub 2 (a) and how that would be administered. Attorney Mogen stated that at that point the house is being constructed and it would be up to the Zoning Administrator to determine.

Ordinance No. 2007-42 – Jim Mogen reported this is in regards to the issue with water oriented structures. The Planning Commission wanted to prohibit water oriented structures within 50' of the OHWL. It also cleans up road side as being the front side of the house. The rear yard is non-road side except in lake lots you don't have either.

Member Volkmuth asked where this came from. Jim Mogen replied this came from the Planning Commission. They are authorized to request changes.

Ordinance No. 2007- 43 – Jim Mogen indicated that the direction of this came from the Planning Commission and City Council which arose when SJ Louis got their approval and they had to be 150' from the residential district. 150' is unusable. The Planning Commission used the language from St. Joseph and recommends a 60' setback but it has to be landscaped. This clarifies when parking works.

No one from the public appeared to be heard.

Motion by Member Volkmuth, second by Member Palmer, to close the public hearing at 7:10 p.m.

***AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.***

Member Pflapsen asked Member Palmer if the Planning Commission discussed the zoning of Industrial next to residential R-1 which is highly unusual. The intent of setbacks from industrial property is to protect the citizens. He has no problem if the property next to it is multi family.

Jim Mogen reported that there is one property in the city that is actually surrounded by Industrial.

Mayor Herberg suggested that in lieu of Member Pflapsen's concern (for future use) the council could adopt a policy that property abutting up to Industrial has to be Commercial or R-2 or greater.

Member Palmer stated that a different standard for property abutting R-1 could be added which Jim Mogen said he could do.

Jim Mogen suggested that the council pull this back, but wanted direction on R-1 & R-2 being treated the same.

More discussion was held and it was determined that a 100' setback from R-1 would be better than a 60' setback.

Mayor Herberg stated he would support 100' setback from R-1, but not R-2.

Member Pflapsen introduced the following ordinance with an amendment to require a 100' setback if the Industrial property abuts an R-1 District.

ORDINANCE NO. 2007-43

AN ORDINANCE AMENDING THE CITY ZONING CODE AS IT APPLIES TO SETBACKS FOR INDUSTRIAL ZONED PROPERTY

(A complete copy of the ordinance is hereby attached and marked Exhibit C).

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

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

Member Volkmuth stated that he has concerns with Ordinance 2007-42. This will not fly because it is too restrictive when you are taking away any structures within 50' from the OHWL. Pleasant Lake had public hearings on this and they wanted to have the option to build. Jim Mogen clarified that it is not 50' but the building setbacks of 75' or 100' depending of the type of lake.

Member Palmer stated that if you can meet the setback and have room on the side then it is okay.

Member Volkmuth indicated he would like to see one small water oriented structure allowed because it makes it very difficult to do anything around the lake.

Member Palmer questioned how serious are we about developing around the lakes. There is concern of impact that happens around the lakes. We keep making exceptions. If people can meet impervious surface requirements and the size of building requirements it is okay.

Member Volkmuth agreed on impervious surface requirements being taken into context, but a small structure should be allowed. You are taking too much land away from people to build on. He suggested it not be closer than 20' from the OHWL. On Pleasant Lake at least 60% of the people have structures on them. We should at least let people rebuild if a structure burns down.

Jim Mogen indicated that the law would allow structures to be rebuilt.

Member Volkmuth motioned to amend Ordinance No. 2007-42 to allow for 120 SF structure, but not a garage.

Rena Weber reported that with the Alternative Shoreland ordinance people asking for permits or variances will be asked to leave a 25' non-mowed setback with vegetation.

Member Hagen suggested the amendment to include the vegetation requirement.

Member Volkmuth amended the motion to require a 25' non-mowed vegetative setback.

Member Palmer voiced concern that this is not what we are looking at.

Member Pflapsen agreed that being on the lake, the lake is the view and he would not support such a change. We are here to protect the resource and it is long term.

Motion died for lack of a second.

Member Hagen suggested the council table action to talk to residents.

Member Simon introduced the following Ordinance and moved for its adoption:

ORDINANCE NO. 2007-42

AN ORDINANCE AMENDING THE CITY ZONING CODE BY RESTRICTING WATER ORIENTED STRUCTURES

(A complete copy of the ordinance is hereby attached and marked Exhibit B).

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

AYES: Herberg, Palmer, Pflapsen & Simon

NAYS: Hagen & Volkmuth

Motion passed on a 4 to 2 vote.

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

ORDINANCE NO. 2007-41

AN ORDINANCE AMENDING THE ZONING REGARDING CONSTRUCTION & CONTINUATION OF STRUCTURES FOR ACCESSORY USES

**(A complete copy of the ordinance is hereby attached and marked Exhibit A).
The motion for the foregoing ordinance was duly seconded by Member Volkmuth with the following vote being taken:**

**AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 6 to 0 vote.**

ADDRESS LETTER TO THE EDITOR – Mayor Herberg asked Administrator/Clerk Rena Weber to report on the agenda item. Rena Weber referred to the Letter to the Editor written by Vince and Audrey Schaefer in the *Cold Spring Record* on 11/20/07.

#1 – BREAKDOWN OF COUNTY ROAD 82 COSTS – Schaefer's questioned the assessment of \$255,525.00 when the actual cost was \$164,990.00 which is a \$90,535.00 profit.

Scott Hedlund stated the breakdown was shown on the city web-site and listed the breakdown of the city's actual costs of \$200,109.42.

\$107,036.07 – City 36% Share of Participating Storm Sewer
93,073.35 – Miscellaneous Non-Participating
- 18,903.00 – Eliminate future Street Lighting Appurtenances
\$181,206.42 New Total

Breakdown of Non-Participating City Costs

\$ 93,073.35 – County listed city Non Participating total
- 18,903.00 - Eliminate future Street Lighting Appurtenances
\$ 74,170.35 New Total

Breakdown of \$74,170.

\$ 14,470.00 - Elm Street (street, curb & turf restoration only)
10,799.00 – Elm Street (additional bit and aggregate base)
5,395.00 – Elm Street fire hydrant & appurtenance
7,083.00 – Concession Stand Storm Sewer
14,723.00 - Concrete removals, sidewalk and driveway pavement
10,137.00 - Bituminous Bike Trail
7,670.00 - Birch Street Storm Sewer
2,060.00 - Mobilization, Traffic Control, Detour Signing. Etc.
1,833.00 - Miscellaneous hourly Equipment Rental

Member Palmer indicated that the fact is we did approve a schedule of costs (an average of costs) which is being reviewed on an annual basis. The schedule is not something just picked out of the air. They are actual rates based on the costs received from bids that are coming in.

Member Hagen stated the word profit keeps coming out. If we levy taxes for a road project and there is excess money it would go into a dedicated road fund for road projects. This is a misleading term. There is nobody profiting from this. It will be used for road projects. The council is not sticking money in their pockets.

Mayor Herberg stated that money is just exactly what Jeff stated it would be used for, not building, wages, etc. On some projects we may gain and some we may lose. Unforeseen costs do come up.

Member Volkmuth stressed again many cities assess. These are not trumped up costs. They are based on estimates from the city engineer. He takes offense to that.

Mayor Herberg indicated the schedule of costs was taken from St. Cloud and this is adjusted annually.

#2 – EXPLAIN WHY YOU VOTED YES TO THE COUNTY ROAD 82 PROJECT -

Rena Weber indicated that it was a county project and a matter of formality.

Member Volkmuth indicated there was a Main Street Committee who was pushing for this project, but probably never thought they might have to pay for some portion of it. When this came out that we had to vote on it, it was a matter that there weren't a whole lot of options. It was either take it or forego all the money. As a councilmember he did not feel it had to be done, but we were forced into approving it. We had a County Commissioner who said either you take the funds this year or you are going to lose it. He felt like we were backed up against a wall.

Member Hagen stated that they pursued other options. Jim Pflapsen and he met with Vince Schaefer and Mitch Anderson to look at options to cut back on the project, and we were told we had no choice. To make a statement that we did not look at options is not an accurate statement.

Member Pflapsen agreed that they did meet with Vince and Mitch Anderson to discuss this. They threw Eagle Park on the table and he was not sure if anybody knew that so this is not a fair statement. They tried to figure ways to fix this and were told by Stearns County there was nothing we could do about it.

#3 – EXPLAIN WHY YOU VOTED YES TO THE COUNTY ROAD 8 PROJECT -

Member Palmer indicated this was the same issue as County Road 82. The project was moved ahead one year in advance.

Member Pflapsen indicated that now that it was moved ahead there was no stopping it. It was unfortunate since they tried to look at re-locating the County Road, but there was no time.

#4. EXPLAIN WHY YOU CANNOT SUPPORT BONDS BEING USED THAT HAVE BEEN ADOPTED THROUGH A PUBLIC HEARING APPROVING A FIVE YEAR PLAN -

Member Hagen stated the reasons were taken from Dave Drowns memo. Regarding reconstruction bonds and the limitations on them:

1. The City must prepare and adopt after a public hearing a 5-year street reconstruction plan that identifies streets and costs.
2. Projects cannot expand or widen existing facilities, or add curb & gutter.
3. The plan is subject to reverse referendum. A petition against the plan signed by 5% of the voters in the last general election submitted within 30 days after the public hearing can stop the process.
4. Any reconstruction debt is subject to the 2% net debt limit.

Member Palmer indicated the concern was also with the 2% debt limit. If the city did just one project we could be at our debt capacity and have no flexibility. If something bad happened to the water tower, we could not do anything. That did not seem a reasonable way.

Mayor Herberg voiced concern about the rumor that the city was in such dire financial straights. If the city were to start borrowing up against that 2% limit then we could be (if we had a cash problem) in a financial burden.

Member Pflapsen voiced concern that Mayor Herberg heard that we were in financial straights and stated that our levy is among one of the lowest in central MN. Our budgets are audited every year and the financial planner tells us this city is being run very well. It is disappointing to hear this type of discussion.

Mayor Herberg indicated the city has an A- Bond rating which is one of the highest to get so that goes a long way.

#5 & #6 - LEGAL AND ENGINEERING BUDGETS BEING OVER – (GENERAL FUND)

LEGAL FEES - \$22,500 BUDGETED – YEAR TO DATE \$42,726.26

ENGINEERING FEES - \$5,000 BUDGETED – YEAR TO DATE \$13,778.22

Rena Weber reported the city has received \$8,232.22 in reimbursements for some of the overage due to various projects residents have requested approval on this year. These bills are billed as we get them and are usually not in the same month the expense occurred.

Also, in developing the assessment policy we have spent \$10,528 on legal and \$6,147 on engineering with an additional \$1,900 on council/staff time.

The city does pay for Jim's attendance at meetings – this is being looked at each time to determine if it is necessary for him to be there (both Planning Commission and City Council). Scott's attendance at meetings is not charged to us.

Member Volkmuth indicated that we talked about this at the Finance Committee level and want to curtail, but if we have to defend ourselves, then if we have to hire an attorney then that is what we have to do. He does not mind if we have to go over budget, if that is what we have to do to keep this city in good position.

Member Pflapsen indicated that in light of that we may not be that over budget.

Member Palmer indicated that it is not unusual that something comes up that you did not know about at budget time as they are unexpected.

Member Simon indicated it is always his desire to cut back on engineering where we can.

#7 – EXPLAIN WHY YOU PROPOSE TO ASSESS \$74,510.55 TO ABUTTING PROPERTY OWNERS ON THE COUNTY ROAD 8 PROJECT PAID 100% BY COUNTY STATE AID –

Rena Weber asked if the \$74,510 number is correct when it was more like \$55,000.

Member Palmer indicated this is the same as County Road 82 in that there is no profit as it will be put into a special road project fund.

Member Pflapsen indicated it is a matter of understanding the assessment policy.

Mayor Herberg indicated that the special road fund is to be used for just that road projects only.

#8 – EXPLAIN WHY YOU SAY ONLY THE ABUTTING PROPERTY OWNERS ON COUNTY ROAD 82 ARE BENEFITTING BY THE RECONSTRUCTION OF THE ONE AND ONLY MAIN STREET IN DOWNTOWN ROCKVILLE.

Member Hagen did not recall ever saying that. He always supported that people owning property abutting new or reconstructed roads are benefiting incrementally more than the general public. He always supported saying that whatever that fraction is that we came up with (30% compromised down to 15%) is benefiting those properties incrementally more than other people in the city. There are people who will never walk those sidewalks or drive those roads and are expected to pay 85% of the remaining cost and I don't think that is being unreasonable. I am on County Road 8 and I have one of the bigger assessments that I do not mind paying as I benefit.

ENGINEER REPORT

ENGINEER – Scott Hedlund had nothing to report.

COMMITTEE REPORTS

MAYOR'S REPORT – Mayor Herberg read the letter Rena Weber sent to John & Linda Peck thanking them for their donation of \$10,455 for prairie seeds at Eagle Park. Mayor Herberg also thanked the people who helped on extension of the trail at Eagle Park.

Rena Weber at this time suggested that as a positive thing the council should hold the employee appreciation event, like we do every year, after the 12/19/07 council meeting and invite everybody who volunteered in any way for the city in the past year. Approval was given to schedule this event.

FINANCE COMMITTEE – Chair Palmer reported on the following:

Purchase of Rescue Van – This approval was already done.

Financial audit proposal – It was determined that staff would send out RFP's this year.

Detachment of Six Sections. – Rena Weber reported that she has the same information that was given to Maine Prairie Township.

Motion by Member Pflapsen, second by Mayor Herberg, that before we spend any more staff time on this request we wait until there is a bonafide petition.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

PERSONNEL COMMITTEE– Chair Randy Volkmuth reported on the following:

MVR EVALUATION PROGRAM AMENDMENT – The committee recommends approval to delete speeding violation form the Major Citation or Conviction category as it is quite strict.

Motion by Mayor Herberg, second by Member Volkmuth, to delete the speeding violation from the Major Citation or Conviction category as part of the records evaluation (MVR).

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

SUMMER REC COORDINATOR – Chair Volkmuth reported that the committee reaffirms their recommendation on payment for this position.

Motion by Mayor Herberg, second by Member Palmer, to reaffirm the recommendation to pay this position \$1,000 for the coordinating of the ball program and \$750.00 for any additional tournament hosted by Rockville per the Park & Recreation Board recommendation.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

COURT APPEARANCES FOR FIRE FIGHTERS

Chair Volkmuth indicated the committee would like to do this on a case by case basis so each would be reviewed at the time of the appearance. The occurrence of this is very limited so it should not be an issue.

Motion by Member Palmer, second by Member Simon, to deal with these requests for payment on a case by case basis offering the option to appear before the Personnel Committee (the employee's discretion) unless the Personnel Committee asks them to present their case.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

LUMP SUM BENEFIT HEALTH INSURANCE – Chair Volkmuth indicated that the committee reviewed this request and would like to delete this benefit. There is one employee who would be affected.

Motion by Member Palmer, second by Member Volkmuth, to approve deletion of this benefit and further if the employee wants to be on the insurance plan they can elect to do so.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

ADMINISTRATOR/CLERK EVALUATION/LONGEVITY PAY – Chair Volkmuth reported that the yearly evaluation was done on the Administrator/Clerk and it was determined that a few areas could be worked on; however, there were areas where she does an excellent job. The committee recommends granting a longevity pay of \$500.00 to Rena Weber for 2007.

Motion by Member Palmer, second by Mayor Herberg, to approve granting of the \$500 longevity pay based on a successful evaluation to Rena Weber for 2007.

AYES: Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth

Motion passed on a 6 to 0 vote.

Member Hagen questioned if the family health insurance policy is much more attractive than other spouses policies. Are they picking our plan over other employers because it is more attractive?

Member Volkmuth indicated it is competitive.

Member Hagen indicated it would cost us \$9,000 or \$10,000 if they don't go with the spouse.

Mayor Herberg indicated that for the two who are taking the family plan it is not offered on the other side. The one that was taking the benefit had the plan on the other side and was taking the offset from us.

Member Hagen asked so you don't feel they will take ours.

Mayor Herberg indicated that he doubts it.

Member Hagen indicated that he would hate to save \$500 and spend \$9,000.

Member Volkmuth indicated it is more like \$500/month.

STREET COMMITTEE – Chair Don Simon reported on the following:

TAMARACK COURT DRAINAGE ASSESSMENT – The committee met with the three property owners, city attorney and engineer and reviewed the options available for solution. The Street Committee took comments from the property owners and recommends leaving the assessment as is.

Member Pflapsen explained that as the alternate he could not make a motion nor second a motion, but he had thoughts on how this should be addressed. He wanted to reduce the assessment for the two home owners by 50% and leave the Willenbring's assessment as is. Chair Simon reiterated his motion and it died for a lack of a second.

Duane Willenbring addressed the council as to why the drainage issue got to that point and stated this is where the assessment policy should work. \$3,700 is the assessed value of the property, with \$1875 that he is being expected to pay. Mr. Willenbring has a problem with how it was determined to assess 12 property owners. Eich's and Haubrich's are down gradient from where the water originated. Mr. Willenbring urged the Council to look at the topography of the land. If we would have looked at this then 1/3 of Country Side addition would be included in this assessment (including the back side) since they all drain into the wetland. There is a flaw in the thought process and he asked the city engineer to explain the thought process.

Mayor Herberg reported that the council is the board who decided who would be assessed based on information the engineer provided.

Member Volkmuth indicated this was not based on the assessment policy.

Member Palmer indicated her concern to the new Special Assessment Policy Committee that they are not to look at this type of assessment, but the assessments for roads.

Member Pflapsen indicated that if you look at the Ptarmigan Lane homes those people came in and said that they never had any problems. There will be times when people live across the street from an improvement and they are assessed. This line does go on the edge of their property line. Mr. Willenbring's issue is that this should be a bigger area. Mr. Willenbring does benefit by this project. His motion occurred due to the fact that the Eich's, Haubrich's and Willenbring's took advantage and followed the rules to object as part of the process. Member Pflapsen still supports his position to give a 50% reduction to Eich's and Haubrich's while leaving the Willenbring's assessment as is because he does benefit.

Mayor Herberg indicated the theory of benefit is that if it goes by your house, you benefit. If you grant a reduction, the city picks up the costs.

Scott Hedlund reported that this is not your typical storm water drainage project; it is a sub-grade drainage project.

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

RESOLUTION NO. 2007-42

***RESOLUTION ADOPTING FINAL ASSESSMENT FOR THREE PARCELS
ON TAMRACK COURT DRAINAGE IMPROVEMENT***

(A copy of the complete resolution is hereby attached and marked Exhibit D).

Duane Willenbring asked for point of order and Mayor Herberg granted him the opportunity to address the council again.

Mr. Willenbring wished to plead to the council that the cost to fight this assessment is costly, they are held hostage, he urged the council to make a decision, and to not put your blinders on. \$1875 to a value that is \$3700 to start – the council is going to lose that case in court each and every time. He is held hostage and can't afford to pay legal to defend him. Morally you have an obligation. In the fall city newsletter Mayor Herberg states the assessment policy goals are:

1. Be fair and equal to all City residents and businesses.
4. Balance the special benefits of municipal projects for specific property owners with the general benefit of the projects for all City residents.

So if all the residents are benefiting by the project, there is a whole host of people who should be assessed. Show me the value of having the storm sewer on the east side of his property. MN Statutes state that the procedures by which the city assesses are those specified by Chapter 429 in that all or a part of the costs be assessed to benefiting properties. Mr. Willenbring explained that everybody that is up gradient is a benefiting property. He cannot afford to fight this as it will cost thousands and thousands of dollars. He would win this in court.

Member Pflapsen stated that if we were to assess everybody in the watershed we would have as many people side with the engineer. It is a sub-surface issue. It is a soils issue and goes back to the fact that a couple of homes should never have been built.

Member Palmer indicated that we worked with the property owners at their request and determined that we will take it over and maintain it.

Member Pflapsen stated that he does put some value on people following a process and his thought still is to reduce the two homes to 50% with the city picking up \$1875 since they followed a process.

Member Palmer indicated the issue of is there a benefit if it goes past your home? Duane Willenbring asked for a division of the house.

AYES: Hagen, Herberg, Palmer & Volkmuth

NAYS: Pflapsen & Simon

Motion passed on a 4 to 2 vote.

COUNTY AGREEMENT – Chair Simon reported that Rick Hansen is working on an agreement whereby we will plow County Road 47 and 8 between Old Hwy. 23 and new Hwy. 23. This is in return for supplying salt brine and the city plowing two roads.

OPEN FORUM

Vince Schaefer – 541 Caroline Lane thanked Duane Willenbring for making a case for the County Road 82 storm water project. He had the following comments:

- Indicated that Rena sent him an e-mail last Friday telling him a letter would be on the agenda asking him to be here to answer questions
- He did not understand why he got invited since he raised his hand and was not recognized
- He has been out of town so he had no time to prepare for this
- He did not hear half of the statements made
- Figures he presented on the Elm Street were taken from bid list
- Elm Street will be a little smaller because we saved a row of trees
- This is all a mute issue because the assessment policy committee has been disbanded setting up new policy committee – they will have to live with whatever the new committee comes up with
- This started out as a response to a letter written by Jeff Hagen in the Cold Spring Record
- Did not make sense that this letter was written by Jeff Hagen and he said the least
- Overages – this information came from your staff
- In his world if a department head came up with a 5% overage, heads would roll
- County Road 82 issue – without city council approval the turn back project would not have been done – any reason you gave was simply a cop out
- County Road 8 project – county could have done that even without council approval, but in 2005 we had County Road 5 – Brockway Twp. where St. Stephen decided they would not participate so the County thought they would give it to another city and at the last minute St. Stephen indicated they wanted it.
- Finally, he never heard that anybody had a problem with the assessment policy. He would like to know the name of the cities who have an assessment policy where the city assesses on a project where it is paid entirely by another entity
- Julie Zimmerman has provided information all year to the council and the budget for engineering and legal has been over budget since March

Tudie Hermanutz – 211 1st St W – because of snow and because of her concern about snowmobiling she wanted to mention the rules in her column. There is a paragraph on where you can actually drive: Section 5 – Sub 1. Reads:

On the portion of any right-of-way of any public highway, street, road, trail or alley used for motor vehicle travel, except the most right hand lane (except in passing) which is used for vehicle traffic in the same direction other than on freeways, interstate, trunk, county state-aid county highways. Snowmobiles may also be operated upon the ditch bottom or outside of trunk, county state-aid

and county highways where such highways are so configured within the corporate limits. If making a left-hand turn, snowmobiles may operate on other lanes which are used for vehicle traffic in the same direction, for purposes of going to or returning from a non-highway area of permissible operation, by the most direct route.

She voiced her concern that there is no ditch along County Road 82 (downtown) and wanted to know where people can drive along County Roads that don't have ditches or what happens on trunk roads.

Member Volkmuth directed his comment to Vince Schaefer that in regards to the assessment policy you said this was a mute point then why did you write the letter to the editor (we met on 11/14/07 and your letter appeared on 11/20/07) after we moved to appoint a new committee.

Vince Schaefer said he wrote the letter before the meeting.

Member Volkmuth stated that is why we have all this animosity and why we have to deal with this at a public meeting.

Duane Willenbring stated he had a question on expanding the appreciation party. If it is going to cost the city taxpayers money then pay him the money they would be spending on him so he can pay his assessment. Mayor Herberg informed his that this is pot luck.

Jerry Bechtold stated that in the past he has tried to get people to come to Rockville. All he has heard are negative comments. He would like council approval to draft a brochure that he can give out. Mayor Herberg indicated to Jerry that he could count on that.

Don Simon responded to Tудie Hermanutz that the snowmobile ordinance does state something about taking the shortest route and does say where you can drive on. He figures driving on the trail is okay.

Sharon Sponheim asked if people can attend the Special Assessment meeting and speak.

Mayor Herberg indicated that it depends on the Chair.

Sharon Sponheim stated the A- bond rating isn't that much because you can buy insurance and get that rating up.

Sharon Sponheim further stated that granting longevity (bonus) pay is against the law.

ADJOURNMENT - Motion by Mayor Herberg, second by Member Pflapsen, to adjourn the meeting at 9:01 p.m. Motion carried unanimously.

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

BRIAN HERBERG
MAYOR