

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, AUGUST 1, 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 member Vern Ahles, Jeff Hagen, Susan Palmer, Jim Pflapsen, Don Simon and Randy Volkmuth. Absent: None.

Staff members present were: Administrator/Clerk Rena Weber, Maintenance Person Rick Hansen, Fire Chief Randy Dingmann, Engineer Scott Hedlund, and Attorney Jim Mogen.

Planning Commission members present were: Toni Honer.

Others present were: Brad & Laura Johnson, Ev Balko, Pat Grelson, Brian Hatten, Tudie Hermanutz, Vince & Audrey Schaefer, Dave Volkmuth, George Bechtold, Bruce Conrad, and Paul Massmann.

ADDITIONS TO THE AGENDA: There were none.

CONSENT AGENDA –

Motion by Member Ahles, second by Member Simon, to approve the consent agenda as presented:

- a) ***Approve Minutes of 07/17/07 Sp. Assessment Policy, 7/18/07 & 7/25/07***
- b) ***Approve Treasurer's Report of 08/01/07***
- c) ***Approve List of Bills and Additions***

<i>Accounts Payable CK #009332 to 009386</i>	<i>\$583,002.13</i>
<i>Payroll CK #002787 to 002799</i>	<i>6,826.56</i>
<i>EFT CK #000114 to 000116</i>	<i>1,324.56</i>
- d) ***Approve one day gambling permit –St. Mary Help of Christians 10/12/07 @ 400 Supper Club***

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

Motion passed on a 7 to 0 vote.

BOARD/STAFF REPORTS

FIRE DEPARTMENT – Fire Chief Randy Dingmann reported on the following:

SCHEDULE I, II, & III – Rena Weber reported that the amended Schedule I, II, & III is presented for approval. There was a minor change on Jeff Howe who was on leave of absence for one year that should be credited giving him one more year of service as he was in the military serving in Iraq. This would change the city contribution from \$5665 to \$5905.

Motion by Mayor Herberg, second by Member Ahles, to approve the Schedule I, II, & III as amended.

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

ABSTAINING: Simon

Motion passed on a 6 to 1 vote.

MAINTENANCE DEPARTMENT – Rick Hansen reported on the following:

EVEN/ODD WATERING BAN – Rick Hansen reported that currently the downtown area is using three times the amount of water that it normally does (60,000 to 70,000 gpd to 200,000 gpd) and requested approval to restrict watering to an even/odd watering ban.

Member Hagen asked what the fine would be and whether a warning is given first. Rena Weber explained that there is an administrative fine (\$75.00) and that warnings could be given first. It was determined that information would need to be given to all affected residents.

Motion by Member Palmer, second by Member Simon, to enact an even/odd watering ban effective immediately for the downtown (core city) area issuing a warning on the first offense and administrative fine thereafter.

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

Motion passed on a 7 to 0 vote.

PURCHASE OF WATER METERS – Rick Hansen requested approval to purchase 6 water meters for the Water Department supply.

Motion by Member Volkmuth, second by Member Simon, to approve the purchase of 6 water meters, connections and tax in a amount of \$1,353.40 and further to charge this to 601-49440-540.

AYES: Ahles, Hagen, Herberg, Palmer, Pflapsen, Simon & Volkmuth
Motion passed on a 7 to 0 vote.

PLANNING COMMISSION – Chair Toni Honer reported on the following:

BRADLEY & LAURA JOHNSON VARIANCE – 25927 80TH AVENUE – Chair Honer reported that the Planning Commission considered the request of Bradley A. & Laura J. Johnson for a variance from Setback Requirements. The address of the property is: 25927 80th Avenue, St. Cloud, MN 56301 with a legal description of: Lot 20 less that part lying Northerly of a line drawn parallel to an distance 15 feet Southerly of the Northerly line and less that part lying Southeasterly of a line which lies 20 feet Northwesterly of and parallel to the Southeasterly line of said Lot 20.

ALSO that part of Lot 18 lying Northeasterly of a line which lies 25 feet Southwesterly of and parallel to the Northeasterly line of said Lot 18, except that part which lies Southeasterly of a line 40 feet Northwesterly of and parallel to the Southeasterly line of Lot 18, all in Schmitt's Pleasant View, according to the plat and survey thereof, now on file and of record in the office of the Stearns County Recorder, Stearns County, Minnesota.

The request is to construct a 22' x 28' unattached garage and to build within 25 feet of 80th Avenue. Setback requirements are: 25 feet.
 Said structure will also be placed 8 ½ feet from the primary structure. Setback requirements are 10 feet.

Chair Honer stated that the Planning Commission completed a site visit of the property and recommends approval of both variances subject to approval of the site plan and further that the house and garage siding and shingles match within one year.

STAFF REPORT

Re: Variance Requests (2)
 76.42170.015: Owners: Bradley & Laura Johnson
 Property Address: 25927 80th Ave. St. Cloud, MN 56301

Variance(s) Requested:

1. Variance to construct unattached 22' x 28' garage and to locate it 8 ½' from present home **10' required** and also a variance to locate 11' (on N corner) & 20' (on S corner) from 80th Avenue **25' required.**

Construction Requests:

1. Construct 22' x 28' unattached garage that someday will be connected to present living structure. Also, if finances permit, in the future they would like to add a story to the house as well.

Relevant Information:

1. R-1 Single Family District. Existing home is located within 1000' of Pleasant Lake and Shoreland overlay standards apply.
2. Existing home has vertical brown wood siding and single car garage.
3. Elevation certificate is not required; however, a topography survey has been provided.
4. Grinder station is located on the south side of **proposed garage and should not be built over the 10' utility easement.**
5. The impervious area is not an issue as it was calculated at 23%.
6. The lot to the south of the property is currently vacant and depending on what is built there site impediment could be an issue. There is nothing located on the northern lot blocking view.

Recommendations:

1. Stearns County: Appears to have no concerns other than noting that a variance is needed for the same things the city would require only we have a 25' setback from the roadway not 63'. As to the 4' x 4' entry way. I included it in the 8 1/2'.
2. At the time of presentation no actual plans were submitted. The owner wishes to wait until approval is given before they have those done.
3. As to the roof, Mrs. Johnson informed me that when they actually connect the garage to the house the roof lines will not match. I imagine that will have to be dealt with at that time.
4. Consider whether the view is blocked by the proposed garage for safety reasons. When a vehicle is positioned at the intersection of Holly Road and 80th Avenue – can they still see?

Member Palmer read the findings of fact and minority report citing that all questions were approved unanimously except for #5 whereby one member voiced concern that the property is adequate and usable, just more convenient.

***Member Hagen introduced the following resolution and moved for its adoption:
RESOLUTION NO. 2007-23***

A RESOLUTION APPROVING VARIANCES IN THE SHORELAND DISTRICT.

WHEREAS, A request has been received from Bradley & Laura Johnson for a variance from Primary Structure Setback and also Roadway Setback requirements to construct a 22' x 28' unattached garage in the Shore Impact Zone in the R-1 District, and;

WHEREAS, said structure will be placed 11' and 20' from the rear yard lot line (roadway), and 8 ½' from the primary structure, 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 22' x 28' unattached garage and to locate it (11') and (20') from the roadway, and 8 ½' from the primary structure upon approval of the site plan by the zoning administrator.***
2. ***Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.***
3. ***That granting of the variance will not be detrimental to the public health, safety, comfort and general welfare of the City.***
4. ***The siding and shingles shall match the main structure within one year of issuance.***

The motion for the foregoing resolution was duly seconded by Member Simon, with the following voting in favor:

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

Motion passed on a 7 to 0 vote.

EUGENE & KAY JOHNSON – VARIANCE (400 CEDAR STREET SOUTH) – Chair Honer reported that the Planning Commission considered the request of Eugene & Kay Johnson for a variance from Setback Requirements. The address of the property is: 400 Cedar Street, Rockville, MN 56369 with a legal description of: Lot Six (6) and West Half of Lot Five (5), Block One (1), Clark's Addition to Rockville, according to the plat and survey thereof, now on file and of record in the Office of the County Recorder, in and for Stearns County, Minnesota.

The request is to replace existing entry porches with a wrap around porch that encompasses both porches. Said structure would be located 13' from 4th Street which requires a 25 foot setback AND said structure would be located 10 feet from Cedar Street which requires a 15 foot setback.

Re: Variance Request
76.41634.406: Owners: Eugene & Kay Johnson
Property Address: 400 Cedar Street South

Variance(s) Requested:

1. Variance to construct a wrap around porch to the residence and to build within 13' of the 4th Street South property line (requires 25') & further to build within 10' of Cedar Street (requires 15' on corner lot).

Construction Requests:

1. Remove existing porches on north and west side of home and replace with 7' x 22'9" wrap around porch.

Relevant Information:

1. R-1 Single Family District. Existing home, entry porch, etc. are non-conforming due to existing 25' set back.
2. Additions to the home would add to existing non-conformance; therefore requiring this variance.
3. Addition to the west side (Cedar Street) should not encroach upon the 15' setback.

Recommendations:

1. This will improve the livability of the home, will still be in line with existing homes, and will improve the overall appearance of the home.
2. The Staff recommends approval.

Member Palmer reported that the finding of facts will show that the Planning Commission approved all questions unanimously.

Toni Honer reported that the Planning Commission recommends approval based on the findings of fact.

***Member Volkmuth introduced the following resolution and moved for its adoption:
RESOLUTION NO. 2007-24***

***RESOLUTION APPROVING A VARIANCE FROM FRONT & SIDE YARD
REQUIREMENTS IN THE R-1 DISTRICT.***

***WHEREAS, A request has been received from Eugene & Kay Johnson for a
variance from Front & Side Yard Setback requirements to construct a wrap around porch
in the R-1 District, and;***

***WHEREAS, said structure will be placed 13' from the front yard lot lines and 10'
from the side yard lot line, 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 7' wide wrap around
porch and to locate it 13' from the front yard lot line and also 10' from the
side yard lot line.***

2. **Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.**
3. **That granting of the variance will not be detrimental to the public health, safety, comfort and general welfare of the City.**

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

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

Motion passed on a 7 to 0 vote.

ORDINANCE NO. 2007-40 – Toni Honer reported that the Planning Commission has reviewed a proposed amendment to the zoning ordinance regarding exterior finish on accessory structures and recommends approval of the proposed ordinance.

Rena Weber asked if the council wished to review/approve all site plans in the R-1 District. Attorney Mogen reported that requirement falls under another portion of the ordinance and would best be included with the “clean up” ordinance amendments.

Motion by Member Ahles, second by Mayor Herberg, to schedule a public hearing to consider approval of proposed Ordinance No. 2007-40 on 9/5/07 at 7:00 p.m.

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

Motion passed on a 7 to 0 vote.

OLD BUSINESS – There was none.

NEW BUSINESS

ASSESSMENT POLICY AMENDMENT – Attorney Jim Mogen presented an amended assessment policy for review citing a decrease from 30% to 15% for county roads. (*Refer to Attorney memo dated 7/27/07 attached and marked Exhibit A*).

Rena Weber reported that a memo will go out to the residents with a summary of what the assessment means.

Mayor Herberg stated that he wants to wait on approving the policy in order to read it in depth.

Member Palmer stated that she read it as it was sent both electronically and later on paper and therefore wants to approve the policy as presented.

Member Pflapsen indicated he felt the same.

Motion by Member Pflapsen, second by Member Volkmuth, to approve the revised assessment policy as updated by the city attorney.

Member Simon stated that he would like to read it over too.

AYES: Ahles, Hagen, Palmer, Pflapsen & Volkmuth

NAYS: Herberg & Simon

Motion passed on a 5 to 2 vote.

ENGINEER – Engineer Scott Hedlund had nothing to report.

COMMITTEE REPORTS

MAYOR’S REPORT – Mayor Herberg reported that he and Don Simon met with the city engineer regarding the client feedback session and suggested that a 1 hour session on roads, pipe, and infrastructure be done to inform all council members of what it takes to build a road.

STREET COMMITTEE – Chair Don Simon reported the next Street Committee meeting will be held on 8/7/07 at 6 p.m. – City Hall.

ADMINISTRATOR REPORT – Administrator/Clerk Rena Weber requested approval of the following: **Transfer Between Funds**

Since Fund 209 was established for the purpose of keeping a separate running balance for the EDA operations it would seem appropriate to discontinue use of the General Fund EDA category and just use the EDA Fund 209.

Request to transfer the Property Tax balance received for June 2007 to the 209 Fund from the 101 Fund.

Request is as follows:

Transfer \$3,443.45 from R 101-41920-31000 to R 209-41920-31000.

Also, the July county settlement check would then be coded to the 209 Fund R 209-45120-31000 in the amount received of \$ 1,475.75.

Motion by Member Volkmuth, second by Member Palmer, to approve the request to transfer funds as presented.

AYES: Ahles, Hagen, Herberg, Palmer, Pfllepsen, Simon & Volkmuth

Motion passed on a 7 to 0 vote.

OPEN FORUM

Toni Honer – 512 Cypress Court, asked about the open seat on the Planning Commission and if the Planning Commission can interview the applicants. Toni Honer also indicated that the application process is being reviewed by the Planning Commission.

Discussion was held as Council members indicated that they would like to see more people apply and suggested that the application process be extended two more weeks. Members are to seek more applicants as well.

Motion by Member Palmer, second by Member Volkmuth, to extend the application process for the Planning Commission replacement by two additional weeks.

AYES: Ahles, Hagen, Herberg, Palmer, Pfllepsen, Simon & Volkmuth

Motion passed on a 7 to 0 vote.

Tudie Hermanutz – 211 1st Street W, asked what's happening with Broadway Street assessments?

Scott Hedlund reported the process is that a public hearing will be scheduled and notices of the hearing sent out with the assessments. This is usually done at the end of construction (fall).

Vince Schaefer – 541 Caroline Lane, stated that he fully understands that the present city council is not obligated to follow any of the decisions the former council made. The statement made by the Mayor at a previous meeting regarding that the city will be responsible for more than 10% of the project costs is true and which costs may be 15%. The reason for the 15% is:

- Elm Street is not part of the turn back project. The cost of \$30,958.46 is the listed amount and doesn't include storm sewer. That part should not be assessed to the County Road 82 residents and should be charged to the city hall building project. Without the need for a hydrant nothing would have been done to Elm Street.
- Conduit has been pulled and should be deducted from the 1.8 million.
- The portion of the Rocori Trail should be pulled and not assessed \$5800. Nobody in the State of MN has ever been assessed for a trail.
- Good news and thanks to Jodi Teich, the new sidewalk (where there was no sidewalk) will also be paid 90% from turn back funds. This should also lower any assessments contemplated for these people. That was not a permitted expense for the turn back funds.

Vince Schaefer asked the council to please consider this before the final assessment hearing.

Member Simon asked how the bids came in. Vince Schaefer indicated the estimate was 2.2 million and the bids came in at 1.8 million.

Member Hagen requested clarification on Elm Street (east of City Hall). Scott Hedlund reported the way the policy works is based on the schedule of costs or 15% of the benefit which is charged to the long side on corner lots. Both the City Hall and the Schutz's would be assessed on the front side.

Member Volkmuth stated he feels the \$31,000 should be deducted from the 1.8 million. Discussion was held in that our policy is by the schedule of costs, not the % of total project cost.

Vince Schaefer stated that MNDOT has a list of what they pay for at 90% of all eligible costs.

Member Hagen asked if the Rocori Trail was being assessed. Scott Hedlund reported that it is not being assessed. Member Hagen added that the conduit was pulled and is also not being assessed.

Dave Volkmuth – 25754 Lake Road, voiced concern that there are a lot of qualified people who could apply for the Planning Commission. Are we not getting the right message out to them? Mr. Volkmuth stated he applied once, but won't apply again. There are a lot of people who would like to see Rockville work together. Why are we not getting qualified people?

Mr. Volkmuth indicated that he came in at 6:10 p.m. and the council was down to new business. Mr. Volkmuth asked if the council considered going down to one meeting per month in June, July & August. Do we really need two meetings? We may be wasting taxpayer's dollars. We're not that big.

Paul Massmann – 7468 County Road 8, questioned what two things the Council amended to the County Road 8 assessment.

Member Palmer reported that the council amended the assessment policy so that the assessment would be 15% not 30% on County Road 8.

Mr. Massmann stated that he owns a lot of land (400 to 500 acres) and asked the council to consider a flat fee instead of the 200' for every 40 that he owns. Why he put the land under green acres is that he does not intend to develop the land ever. Taxing 200' feet for every 40 acres is not the answer. County Road 8 is the test. There are only a few property owners in the city that this policy affects.

Member Pflapsen indicated that Mr. Massmann has the right to build one house per 40 acres and the policy covers the 40 acres that are on that road where the assessment occurs so he maybe has 2 or 3 that are affected.

Mr. Massmann indicated that he owns on both sides of a road so he is paying for the whole road. Why not charge everybody \$100/yr. for the next five years?

Member Volkmuth informed Mr. Massmann that he missed the Assessment meetings where the council learned that they cannot bond for projects if they don't assess.

Mayor Herberg stated the city currently levies taxes over \$900,000 and to do the amount of road work that we have to do is \$700,000 per year. You made a comment that this should be put on the taxes and everybody pays. Mayor Herberg warned Mr. Massmann that this would add 70% to his taxes and he will notice it.

Mr. Massmann indicated the policy can change and the council will change. Tудie Hermanutz asked if the policy has any consideration for green acres. It was reported that it does not.

Paul Massmann asked why he should have to pay 7 times when he is under Green Acres. He only will have one residence.

Mayor Herberg indicated this was not true as under SP-1 he can build one home on each of the 40 acres and he has that right. Green acres does not make any difference.

ADJOURNMENT – Motion by Member Volkmuth, second by Member Palmer, to adjourn the meeting at 7:08 p.m. Motion carried unanimously.

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

**BRIAN HERBERG
MAYOR**

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