

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY
MAY 18, 2011 - 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, Jeff Howe, Jerry Schmitt, Don Simon, Randy Volkmuth & Duane Willenbring. Absent: None

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Rick Hansen, Engineer Scott Hedlund, Stearns County Assessor Randy Lahr & Planning Commission Chair Toni Honer.

Others present – Tudie Hermanutz, Aaron Cheeley, Kurt & Sylvia Onstad, Carol Dietman, Paul Betz, Maureen Heiserich, Andy Molitor, Dan Hansen, Ev Balko, Mike Nistler, Steve Wischmann, Jerry Tippelt, Corey Schreifels, Sue Vieregge, & Mary Kuhl.

**ADDITIONS TO THE AGENDA – Motion by Member Willenbring, second by Member Volkmuth, to approve the additions to the agenda for discussion purposes.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.**

RE-CONVENE BOARD OF REVIEW MEETING FROM 05/04/11

Randy Lahr – Stearns County Assessor was present to present his recommendation on:
76.41952.0005 – Kurt & Sylvia Onstad – 25622 Lake Road

EMV \$439,200	2011	Pay 2012 \$419,100
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Sylvia Onstad reported that she had an appraisal and it was valued at \$345,000. She and her husband bought the property on 5/18/2010 for \$300,000. This was a bank sale. Randy Lahr stated that he looked at the appraisal and viewed the house. \$395,100 is his recommendation.

**Motion by Member Volkmuth, second by Member Becker, to accept the assessor's recommendation to lower the EMV for 76.41952.0005 to \$395,100.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.**

CLOSE BOARD OF REVIEW –

**Motion by Member Willenbring, second by Member Volkmuth, to close the Board of Review meeting at 6:31 p.m.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.**

OPEN FORUM

Dan Hansen – 23762 Mill Street wanted to comment on Eagle Park in that he is not sure people know what we have out here. By the way there is a pothole on 1st St N.

CONSENT AGENDA

Motion by Member Becker, second by Member Volkmuth, to approve the consent agenda as presented:

- a) Approve minutes of 04/20/11 & 05/04/11
- b) Approve Treasurer's Report of 05/18/2011
- c) Approve List of Bills and Additions of 05/18/2011

Payroll CK # 003994 – 004005	\$10,028.26
Accounts Payable #012853 – 012912	93,978.50
EFT #000422 – 000429	74,677.72
- d) Approve Liquor License Renewals for:

	ON-SALE	OFF-SALE	SUNDAY
Big Daddy's Burgers & Booze, Inc.	X		X
Stoney's Bar	X	X	X
B'S Liquor of Rockville		X	
400 Supper Club	X	X	X
Eddies on Grand Bar & Grill	X	X	X

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

BOARD/STAFF REPORT

POLICE DEPARTMENT – The Police report showed 37 contract hours.

2010 ANNUAL FINANCIAL AUDIT - Steve Wischmann, KDV presented the 2010 audit report stating the city earned a clean opinion. A review of the status and graphs was held.

Finance Chair Sue Palmer suggested that we work with KDV on longer term projections as that has always been a concern.

Member Volkmuth indicated that he would like to look at the water/sewer projections for the next Finance Committee meeting.

Member Willenbring questioned that since the population in less than 2500 would it be wise to change back to a cash system of accounting. Council members indicated no desire to do so. Steve Wischmann stated that from a management standpoint the city should continue to track major assets. As to the cost the fees are not that much different.

The council thanked the auditor and staff for the good job well done.

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

RESOLUTION NO. 2011-08

RESOLUTION ACCEPTING THE 2010 FINANCIAL AUDIT REPORT & MANAGEMENT LETTER

WHEREAS, a yearly audit was performed by Kern DeWenter Viere (KDV) on the 2010 City Financial Audit, and;

WHEREAS, Said audit was reviewed with the city council at their 05/18/11 council meeting.

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

- 1. Said 2010 Financial Audit & Management Letter is hereby accepted and approved.**

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

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

ORDINANCE NO. 2011-71 PUBLIC HEARING – Mayor Hagen announced that consideration would now be given to adopt: 2011-71 – ORDINANCE APPROVING GAS FRANCHISE WITH CENTERPOINT ENERGY.

Rena Weber reported that this has been agreed to by Centerpoint Energy and is recommended for approval. No person appeared.

Motion by Member Volkmuth, second by Member Howe, to close the public hearing at 6:59 p.m.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

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

**ORDINANCE NO. 2011-71.
CITY OF ROCKVILLE, STEARNS COUNTY, MINNESOTA**

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP., d/b/a CENTERPOINT ENERGY MINNESOTA GAS (“CENTERPOINT ENERGY”), ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC WAYS AND GROUNDS OF THE CITY OF ROCKVILLE, STEARNS COUNTY, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF

THE CITY COUNCIL OF THE CITY OF ROCKVILLE, STEARNS COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The City of Rockville, County of Stearns, State of Minnesota.

City Utility System. Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

Company. CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas (“CenterPoint Energy”) its successors and assigns including all successors or assigns that own or operate any part or parts of the Gas Facilities subject to this Franchise.

Gas Energy. Gas Energy includes both retail and wholesale natural, manufactured or mixed gas.

Gas Facilities. Gas transmission and distribution pipes, lines, ducts, fixtures, and all necessary equipment and appurtenances owned or operated by the Company for the purpose of providing Gas Energy for retail or wholesale use.

Notice. A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 800 LaSalle Avenue, Minneapolis, Minnesota 55402. Notice to the City shall be mailed to City Clerk, 229 Broadway St. East, PO Box 93, Rockville, MN. 56369. Any party may change its respective address for the purpose of this Ordinance by written Notice to the other parties.

Ordinance. This gas franchise ordinance, also referred to as the Franchise.

Public Way. Any highway, street, alley, walkway, or other public right-of-way within the City.

Public Ground. Land owned or otherwise controlled by the City for utility easements, park, trail, walkway, open space or other public property, which is held for use in common by the public or for public benefit.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 **Grant of Franchise.** City hereby grants Company, for a period of 20 years from the date this Ordinance is passed and approved by the City, the right to import, manufacture, distribute and sell Gas Energy for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future and also the right to transport Gas Energy through the limits of the City for use outside of the City limits. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to an ordinance or permit requirements adopted consistent with state law.

2.2 **Effective Date; Written Acceptance.** This Franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and its acceptance by Company. If Company does not file a written acceptance with the City within 60 days after the date the City Council adopts this Ordinance, or otherwise inform the City, at any time, that the Company does not accept this Franchise, the City Council by resolution may revoke this Franchise.

2.3. **Service and Gas Rates.** The terms and conditions of service and the rates to be charged by Company for Gas Energy in City are subject to the exclusive jurisdiction of the Commission.

2.4. **Publication Expense.** Company shall pay the expense of publication of this Ordinance.

2.5. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation under, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written Notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in Stearns County District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

2.6. **Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or the Company serves written Notice to the other party of its intention to allow Franchise to expire. However, in no event shall this Franchise continue for more than one year after expiration of the 20-year term set forth in Section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1. **Location of Facilities.** Gas Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System or road projects previously installed therein. Gas Facilities shall be located on Public Grounds in a location selected by the City. The location and relocation of Gas Facilities may be subject to reasonable regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this Franchise

3.2. **Field Locations.** Company shall provide field locations for its underground Gas Facilities within City consistent with the requirements of Minnesota Statutes Chapter 216D.

3.3. **Street Openings.** Company shall not open or disturb any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee, unless the City is receiving a franchise fee pursuant to this Ordinance, in which case all permit fees will be waived. Permit conditions imposed on Company shall not be more burdensome than those imposed on other public-right-of-way users for similar facilities or work. Company may, however, open and disturb any Public Way or Public Ground without a permit if (i) an emergency exists requiring the immediate repair of Gas Facilities and (ii) Company gives telephone, email or similar Notice to the City before commencement of the emergency repair, if reasonably possible. Within two business days after commencing the repair, Company shall apply for any required permits and pay any required fees.

3.4. **Restoration.** After undertaking any work requiring the opening of any Public Way or Public Ground, the Company shall restore the Public Ways or Public Grounds in accordance with Minnesota Rules, 7819.1100. Company shall restore the Public Ground to as good a condition as formerly existed, and shall maintain the surface in good condition for two years thereafter. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration of the Public Ways or Public Grounds at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required under a separate ordinance of the City.

3.5. **Avoid Damage to Gas Facilities.** The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted on the Gas Facilities by persons, property, or the elements. The Company must take protective measures when the City performs work near the Gas Facilities, if given reasonable Notice by the City of such work prior to its commencement.

3.6. **Notice of Improvements to Streets.** The City will give Company reasonable written Notice of plans for improvements to Public Ways and Public Grounds where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The Notice will contain: (i) the nature and character of the improvements, (ii) the Public Ways or Public Grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Grounds is involved, the order in which the work is to proceed. The Notice will be given to Company a sufficient length of time, considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations or repairs to its Gas Facilities the Company deems necessary.

3.7. **Mapping Information.** If requested by City, the Company must promptly provide complete and accurate mapping information for any of its Gas Facilities in accordance with the requirements of Minnesota Rules 7819.4000 and 7819.4100.

3.8. **Emergency Response.** As emergency first-responders, when a public safety concern exists both the City and Company shall respond to gas emergencies within the City without additional direct fee or expense to either City or Company.

SECTION 4. RELOCATIONS.

4.1. **Relocation in Public Ways and Public Grounds.** The Company and City shall comply with the provisions of Minnesota Rules 7819.3100, with respect to requests for the Company to relocate Gas Facilities located in either Public Ways or Public Grounds.

4.2. **Relocation of Gas Facilities in Public Ground.** City may require Company, at Company's expense, to relocate or remove its Gas Facilities from Public Ground upon a finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3. **Projects with Federal Funding.** Relocation, removal, or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally aided highway project shall be governed by the provisions of Minnesota Statutes Sections 161.45 and 161.46.

SECTION 5. INDEMNIFICATION.

5.1. **Indemnity of City.** Company shall indemnify, defend and hold the City harmless from any and all liability, on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence or otherwise wrongful act or omission except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work.

5.2. **Defense of City.** In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written Notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such Notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which

consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense, municipal torts limits, or immunity otherwise available to the City. The Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This Franchise agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability under Minnesota Statutes, Chapter 466.

SECTION 6. VACATION OF PUBLIC WAYS AND PUBLIC GROUNDS.

The City shall give Company at least two weeks prior written Notice of a proposed vacation of a Public Ways or Public Grounds. The City and the Company shall comply with Minnesota Rules 7819.3100 and Minnesota Rules 7819.3200 with respect to any request for vacation.

SECTION 7. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 8. FRANCHISE FEE.

8.1. **Form.** During the term of the franchise hereby granted, the City may charge the Company a franchise fee. The Company will administer the collection and payment of franchise fees to City in lieu of permit fees, or other fees that may otherwise be imposed on the Company in relation to its operations as a public utility in the City. The franchise fee will be collected on a flat per meter basis, or by some other method that is mutually acceptable to both City and Company for each retail customer within the corporate limits of the City. The amount of the fee collected may differ for each customer class. The City will use a formula that provides a stable and predictable amount of fees, without placing the Company at a competitive disadvantage. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City. If the Company claims that the City required fee formula is discriminatory or otherwise places the Company at a competitive disadvantage, the Company will provide a formula that will produce a substantially similar fee amount to the City. If the City and Company are unable to agree, the disagreement shall be subject to the Dispute Resolution provisions of this Ordinance.

8.2. **Separate Ordinance.** The franchise fee shall be imposed by separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least sixty (60) days after written Notice enclosing such proposed ordinance has been served upon the Company by certified mail. The Company is not required to collect a franchise fee if the terms of the fee agreement are inconsistent with this franchise or state law, provided the Company notifies the City Council of the same within the sixty (60) day period.

8.3. **Condition of Fee.** The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of energy within the City by any other energy supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through an agreed-upon franchise.

8.4. **Collection of Fee.** The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The

franchise fee formula may be changed from time to time, however, the change shall meet the same Notice and acceptance requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City. Such fee is subject to subsequent reductions to account for uncollectables and customer refunds incurred by the Company. The Company shall not be responsible to pay City fees that Company is unable to collect under Commission rules or order. The Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments.

8.5. **Continuation of Franchise Fee.** If this franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this franchise expires, will remain in effect until a new franchise is agreed upon. However, the franchise fee will not remain in effect for more than one year after the franchise expires as stated in Section 2.6 of this Franchise. If for any reason the franchise terminates, the franchise fee will terminate at the same time.

SECTION 9. ABANDONED FACILITIES.

The Company shall comply with Minnesota Statutes, Section 216D.01 *et seq.* and Minnesota Rules 7819.3300, as they may be amended from time to time with respect to abandoned facilities located in Public Ways and Public Grounds. The Company shall maintain records describing the exact location of all abandoned and retired Gas Facilities within the Public Ways and Public Grounds, produce such records at the City's request and comply with the location requirements of Section 216D.04 with respect to all Gas Facilities, including abandoned and retired Gas Facilities not located in Public Ways and Public Grounds.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1. **Severability.** Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2. **Limitation on Applicability.** This Ordinance constitutes a franchise agreement between the City and Company as the only parties. No provisions herein shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of this Ordinance or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT-PROCEDURE.

Either party may propose at any time that this Franchise Ordinance be amended. Franchise Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 60 days after the effective date of the amendatory ordinance. If the Company does

not consent to the amendment, the ordinance containing the amendment shall be revoked by City.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This Franchise supersedes any previous gas franchise granted to Company or its predecessors.

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

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

STAFF/BOARD REPORT

PUBLIC WORKS – Public Works Director Rick Hansen reported on the following:

2011 ROAD IMPROVEMENT PROJECTS/COSTS – Rick Hansen had provided his list of road improvement projects with the estimated cost:

1. Pave 245th St (120X21) \$3654.00
(blowout)
2. Pave Burg St (80X23) \$2666.00
(blowout)
3. Pave Lena Lane (50X22) \$1529.00
(blowout, band aid fix)
4. Reconstruct Lena Lane (1029X22) \$70,000.00 estimate
Assess 6 homeowners
5. Reconstruct Ahles Road (1400ft) \$119,000.00

Total \$196,849.00

If the Council wishes to move ahead with the two reconstruct projects I recommend starting the Chapter 429 process immediately as we are already into the middle of May. Rick also reported that on Ahles Road where we meet up with St. Augusta, it would be around \$5000 to \$10,000 to patch this area. St. Augusta would pay one – half of the cost.

Discussion was held regarding the fund 215 balance and how this would be paid. It was determined that with the fund 215, the water tower rent and assessments the project should be looked at.

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

RESOLUTION 2011-09A

RESOLUTION ORDERING PREPARATION OF REPORT ON IMPROVEMENT & SCHEDULING HEARING ON ASSESSMENT.

WHEREAS, It is proposed to improve Ahles Road 1400 lineal feet and Lena Lane 1029 lineal feet and further to assess the benefited property for a portion of the cost of the improvement, pursuant to Minnesota Statutes, Chapter 429,

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

1. That the proposed improvement be referred to Scott Hedlund (SEH) for study and that he is instructed to report to the council with all convenient speed advising the council in a preliminary way as to whether the proposed improvement is necessary, cost-effective, and feasible and as to whether it should best be made as proposed or in connection with some other improvement, and the estimated cost of the improvement as recommended.

2. **The council will consider the improvements in accordance with the report and the assessment of abutting property to be served by the improvements, for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$189,000.**

3. **A public hearing shall be held on such proposed improvement on the 8TH day of June, 2011, in the council chambers of the city hall at 6:00 PM., and the clerk shall give mailed and published notice of such hearing and improvement as required by law.**

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

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

SEAL COATING – Rick Hansen had previously went out for bids on seal coating with the cities of Cold Spring & Richmond. Cold Spring had to back out of the project due to budget constraints. Rick asked the council to hold off on the approval for seal coating as this will be bid again. No action taken.

CRACK SEALING QUOTES– Rick requested the following:

Please award the crack sealing project to Astech Corp. for a contract price of \$19,656 of which Rockville’s portion will be approximately \$10,458.00, upon the condition that the project is accepted by the cities of Cold Spring, Richmond and St. Martin

Fund # 101-43100-319 (\$10,000 from 2011 budget)

Designated Fund # 101-43100-319 (\$458.00)

Budget Amendment

Decrease Designated Funds 101-43100-319	-\$458.00
Increase 2011 budget 101-43100-319	+\$458.00

Journal Entry reflecting the reduction in Designated Funds

DR Designated Funds	\$458.00
CR Unreserved Funds	\$458.00

Motion by Member Volkmuth, second by Member Howe, to approve the request for crack sealing as presented including the budget amendments and journal entry.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

GRAVELING QUOTES – Rick requested the following:

Please approve the 2011 graveling request. This year we are looking at purchasing and spreading approximately 1,300 cubic yards of gravel.(Please refer to attached request for quotes) We sent out six requests and published the request in the Cold Spring Record. We received two quotes back.

Kraemer Trucking and Excavating \$8.75 per yard \$11,375.00

Gene Lange & Sons Excavating \$10.90 per yard \$14,170.00

Please approve Kraemer Trucking and Excavating for the 2011 graveling.

Fund # 101-43100-338 (\$8,000 from 2011 budget)

Fund # 101-43100-328 (\$3,375.00 from 2011 budget)

Motion by Member Volkmuth, second by Member Simon, to approve the quote of Kraemer Trucking and Excavating and the expense of funds as requested.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.

PARK & RECREATION -- Scott Stenseth and the Park Board would like to request approval to close CR 82 on 7/9/11 from 11 a.m. to 3:00 p.m. for the Pedal to the Metal pull. This will have to also be approved by Stearns County Hwy and Sheriff's Departments.

Motion by Member Volkmuth, second by Member Simon, to approve the request to close County Road 82 on 7/9/11 from 11 a.m. to 3 p.m. pending approval from Stearns County Highway and Sheriff's Departments.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.

NEW BUSINESS

STONE'S BAR – REQUEST FOR LIQUOR PERMITS AND APPROVAL TO CLOSE A PORTION OF COUNTY ROAD 82 – Paul Betz was present to request approval to host a band outside in the front of Stoney's for Rock Fest. With this he will need liquor licenses for this and also the truck pull on Sunday at Pickup 'n Power Sports. This too will need county approval.

Who will be responsible to close ½ of the road? Paul Betz and staff.
 Have the neighbors been contacted? Yes

Rena Weber indicated that there was concern last year from one neighbor. It was felt that the event will not abut this property.

Motion by Member Volkmuth, second by Member Willenbring, to approve the two (2) one day non-intoxicating malt liquor licenses and further to approve the closing of one-half of County Road 82 from 8 p.m. to 12 p.m. on 7/9/11 pending approval from the County Engineer and Sheriff.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.

PICKUP'N SPORTS TRUCK PULL – Maureen Heiserich was present to request approval to host their annual truck pull on 7/10/11.

Motion by Mayor Hagen, second by Member Becker, to approve the request to host the annual truck pull at Pickup'n Power Sports on 7/10/11 as presented.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.

LIABILITY COVERAGE WAIVER FORM – Rena Weber reported that this form needs to be approved each year at renewal time. We always take the standard limit of \$400,000.

Motion by Member Volkmuth, second by Member Simon, to approve the form as presented using the amount of \$400,000.
AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.
Motion passed on a 7 to 0 vote.

PLANNING COMMISSION REPORT – Chair Toni Honer reported on the following:

DONALD & DELORES MOLITOR ADMINISTRATIVE PLAT – Chair Honer reported that Donald & Delores Molitor were requesting approval to split the farm house off from the rest of the land. The Planning Commission reviewed the site plan, alternative septic system location and approved the Certificate of Compliance along with the declaration of restriction. No action is needed of the city council.

GREG MUELLER PIT/CENTRAL SPECIALTIES, INC. – Toni reported that CSI requested an extension of IUP that expired on 11/1/10. There were concerns of the neighbors Mike & Sue Nistler. Toni reported that the Planning Commission went out to the site and recommends approval to extend the IUP but with extra conditions:

- (1) **Recommend extending operation until November 1st 2011**
- (2) **To add signs saying no Jake Braking on County Road 2**
- (3) **To get a direct phone number from Central Specialties to direct any concerns or comments to**
- (4) **To post no discharging of fire arms and no use of ATV after working (7:00 a.m.-10:00 p.m.) hours.**
- (5) **New performance bond - \$5000**

Member Volkmuth asked if \$5000 is what we required of Dan Hansen. Yes.

Member Willenbring spoke highly of CSI.

Member Volkmuth motioned to approve the with the stipulations as stated

Member Becker questioned who will enforce this? Stearns County will enforce those items which they have jurisdiction over.

Mike Nistler –25417 County Road 2 stated that he thought the pit was going to be closed and farmed after the County Road 51 project was done, now it sounds like he can renew this permit each year.

Member Howe indicated that he thought too that it was for a specific job and maybe a new IUP needs to be approved.

Member Willenbring stated this pit has been here for a long time and maybe there is ambiguity in what discussed and approved. There is an enormous cost to establishing a pit so an IUP was given and that is why they are established. This is in the spirit of what the contract was.

Member Volkmuth agreed with Member Howe in that the interim use permit is terminated so they need a new IUP.

Sue Vieregge – what the IUP does not say is that it will remain a pit and that the IUP was granted for the CR 51 project. They have intentions of continuing to use the pit. This pit was grandfathered in for extractive uses by Stearns County in 2004. It was never intended that the pit would be closed down after the completion of CR 51 project. It would be a serious economic burden to Mr. Mueller if he were not able to access the piles.

Member Becker cited an area where page 30 of the minutes said that it would be closed at the end of the CR 51 project. Sue Vieregge stated this came from the engineering report and was not carried through to the IUP.

Sue Vieregge indicated that they have complied with the IUP and reclamation has occurred as they are proceeding to the west. Mr. Mueller has installed an irrigation well. It has a rich, high quality vein in this pit.

Jerry Tippelt – speaking as a planning commission member stated there is a plan in place, there is no junk lying around and is a nice site. They are doing a good job with it. There was an interim permit and they are asking for an extension. It is being used and taken care of so if they cause problems it will be shut down.

Member Simon reported that he drives by this site often and for reclaiming they are doing an excellent job. To deny a new IUP would take away a valuable resource.

Member Volkmuth withdrew his original motion and asked that CSI provide a new IUP with the stipulations requested. Member Willenbring seconded this motion with the following voting in favor: (A copy of the IUP is hereby attached and marked Exhibit A).

Sue Vieregge stated that the company does not have a way of putting up Jake Braking signs since this is a county road. Mayor Hagen indicated that as part of the IUP agreement the city will require that CSI do contact Stearns County to request signs. Further Mayor Hagen added that in

his opinion this was clearly a one year interim use permit and CSI needs to take care of the neighbor's concerns before they come for another approval as he will not be in favor of granting another IUP.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

Rena Weber will follow up on the mining pit being grandfathered in 2004.

HOOP STRUCTURE COMPLAINT – Chair Honer reported that the Planning Commission has reviewed a complaint on hoop structures and determined that they are not allowed unless they meet wind load and snow conditions. The Planning Commission wants to know how the Council stands on this issue as they wish to stand united.

Rena Weber reported that the ordinance does not say anything about it being able to meet snow and wind loads. Toni stated the building official would approve this according to the building code. The other issue would be that it has to match the current structures.

Motion by Member Becker, second by Member Schmitt, to support the decision of the Planning Commission, to stand firm on the non-allowance of hoop structures unless they meet the building code and further must match the current structures.

Toni further indicated the Planning Commission wishes to be "Rockville Friendly" so a letter would be sent to the property owner, a site visit set up and then give them a period of time to get rid of the structure.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

PUBLIC HEARING – RIGHT TO FARM -2011-69 – Mayor Hagen announced that a public hearing would now be held to consider adoption of the Right to Farm ordinance. Rena Weber reported that changes on the final document reflect the legal issues as addressed by the City attorney. No person appeared for the hearing.

Motion by Member Volkmuth, second by Member Simon, to close the public hearing at 8:02 p.m.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

Chair Honer stated the Planning Commission reviewed the ordinance and recommends approval as presented.

Mayor Hagen introduced the following Ordinance and moved for its adoption:

ORDINANCE #2011-69

RIGHT-TO-FARM ORDINANCE

AN ORDINANCE TO PROTECT AGRICULTURAL OPERATIONS FROM NUISANCE SUITS UNDER CERTAIN CIRCUMSTANCES

The Rockville City Council does hereby ordain as follows:

Section 1. - Findings of Fact: The Rockville City Council finds that the encroachment of non-agricultural land uses into rural areas may interfere with efficient agricultural production by encouraging unnecessary local regulation of agricultural practices and/or private litigation against farmers.

The Rockville City Council further finds that the right of farmers to produce food and other agricultural products must be balanced with the rights of non-farmers who own, occupy, and use rural land.

Section 2. Intent: It is the policy of the City of Rockville to conserve, protect and encourage the development and improvement of its agricultural land for the production of

food and agricultural products. When non-agricultural land uses extend into agricultural areas, agricultural operations often become the subject on nuisance suits. As a result, agricultural operations are sometimes forced to cease operations or are discouraged from making investments in farm improvements. Therefore, it is the purpose of this ordinance to reduce the loss to the City of its agricultural resources by limiting the circumstances for which agricultural operations, using accepted agricultural practices, may be deemed to be a nuisance.

Section 3. - Definitions: The following words or phrases as used in this ordinance shall have the meanings given them in this section.

- A. Agricultural District: Lands found in areas of City of Rockville classified as "A-40" Agricultural District and "R-R" Rural Residential District as specified upon the official Rockville zoning maps, adopted April 16, 2003 and as subsequently amended.
- B. Agricultural Operation: Conditions or activities that occur in connection with the production of agricultural products and includes but is not limited to the marketing of products at roadside stands or farm markets, the creation of noise, odor, dust, fumes, the operation of machinery, the use of irrigation pumps and equipment, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides, the grazing and confinement of livestock subject to county health and zoning regulations and applicable state requirements, and the use of labor and farm laborers.
- C. Agricultural Practices, Accepted: Methods and techniques for producing and processing agricultural products which do not endanger public health, safety, or welfare. Said practices shall be in conformance with applicable county, state, and federal laws and regulations governing those practices including, but not limited to those governing air, land, and water pollution.
- D. Agricultural Products: Organic material (animal or plant) which supplies food, feed, fiber, fur or fuel, but not limited to, grains, feed crops, vegetables, fruits, seeds, trees, wood, forages, sod, pasture, dairy and dairy products, fowl, poultry and poultry products, livestock, swine, cattle, horses, sheep, fish, goats, bees and honey products, and other similar products.
- E. Nuisance: Means a public or private nuisance as defined by statute, administrative rule, ordinance, or by the common law.
- F. Nuisance Suits, Action or Proceeding: An action, claim, or proceeding, whether brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

Section 4. - Agricultural Operations; Limitation of Nuisance Suits;

Actions or Proceedings: No nuisance suit, action or proceeding, alleging that an agricultural operation is a public or private nuisance under the ordinances of the City of Rockville shall be maintained in the district court if:

- A. The agricultural operation is conducted within an agricultural district; and
- B. The agricultural operation is conducted in accordance with accepted agricultural practices; and

- C. Either (1) The agricultural operation began prior to ownership, occupancy or use of land within an agricultural district by a person alleged to have been harmed as a result of the agricultural operation, or (2) A person, as the owner, occupier or user of lands within an agricultural area, alleged to have been harmed as a result of an agricultural operation after the adoption of this ordinance.

Section 5. - Exemptions: The provisions of this ordinance shall not apply or defeat the right of any person, firm, public body, or corporation to recover damages for:

- A. Negligent agricultural operations;
- B. Damage sustained because of pollution of the air, land, or surface and subsurface water;
- C. Changing the condition of a stream or watercourse;
- D. Increased flood heights or velocities caused by encroachments upon the flood plain;
- E. Excessive soil erosion; and
- F. Agricultural operations located within a non-agricultural district.

Section 6. - Notice to Landowners: The following notice may be included in any contract for the sale or rental of land, and shall be included in any permit issued for the construction of any dwelling on land located within an agricultural district or immediately adjacent thereof.

"The property described herein is located within an area where land is used for commercial agricultural production. Owners, residents and other users of this property may be subject to inconvenience and discomfort arising from agricultural operations, including but not limited to noise, odors, fumes, dust, and operation of machinery of any kind (including aircraft), the storage and disposal of manure, and the application of chemical fertilizers, herbicides, and pesticides. Owners, residents and other users of this property should be prepared to accept such inconvenience and discomfort from agricultural operations, and are hereby put on official notice that Section 4 of the City of Rockville Right-To-Farm Ordinance may bar them from bringing a nuisance action against such agricultural operations."

Section 7. - Disclaimer: This ordinance does not affect nuisance suits, proceedings, or actions commenced prior to the effective date hereof.

Section 8. - Severability: If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared severable.

Section 9. - Certification: The Rockville Administrator/Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 10. - Effective Date: That this ordinance shall be and is hereby declared to be in full force and effect, from and after ten (10) days from the date of final passage and approval.

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

AYES: *Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.*

Motion passed on a 7 to 0 vote.

ORDINANCE NO. 2011-70 RURAL RESIDENTIAL AND AMENDMENTS TO ZONING ORDINANCE REFLECTING THE ADOPTION. Mayor Hagen announced that a public hearing would now be held to consider approval of an ordinance establishing standards for a rural residential district.

Rena Weber reported that city attorney Adam Ripple had reviewed the proposed ordinances and made a few changes in regards to definitions, commercial and non-commercial land uses and restrictions. According to Adam Ripple there still is one area the council needs to discuss:

“One big thing to think about, “Agricultural Land Use” is a permitted use—i.e. hobby farms are a permitted use. This means that as long as the use does not become a feedlot, there is no restriction on the number of animal units. I think this should be looked at very closely because it could cause some very big unintended consequences. If the City wants to put some limits on animal density, I’d suggest revising Subd 2 (a) to something similar to Subd. 4 (l) such as:

- a. Agricultural land uses, providing that farm animals are not kept on parcels smaller than __ acres with an animal unit density not greater than ___ units per acre.”

Jerry Tippelt – 12318 235th Street, would you consider anything under 10 acres and he wanted to know if a horse should come under a CUP so we could regulate it? In some conditions a house and 5 acres may be enough to support one horse. The ordinance says “No animals under 10 acres”.

Toni Honer indicated this is where the large animal unit density comes into play.

Member Howe stated that by definition of farming one or two horses is not a commercial operation.

Jerry Tippelt indicated then that’s fine.

Mayor Hagen voiced concern that we don’t have those restrictions so how can you have a horse on five acres.

Rena Weber read the definition of agricultural land use that was added today:
“AGRICULTURAL LAND USE” means the cultivating or pasturing of a parcel of land or using it for the raising of animals for non-commercial purposes other than a feedlot or farming. Agricultural Land Use includes hobby farms.

Mayor Hagen asked what limits the number of animal units on five acres or more.

Member Willenbring indicated that you would have to consider a graduated system and only if a resident requested changing to a Rural Residential district.

Corey Schreifels – 12450 235th Street, asked how you are going to handle it if someone in an agricultural area has had two horses and then they request Rural Residential and now they are out of compliance. Would that be grandfathered in?

That would be taken into consideration at the time of application.

Dan Hansen 23762 Mill Street, commented that if you have 5 acres and you are going to have two animals, but you are going to have 4 acres for the animals as opposed to having one large animal on one acre and 4 are for the house. How can you justify that? Sometimes 10 acres can hold 10 cows or 10 animals easily.

Susan Palmer – 21108 Fowler Road asked the council to remember the discussion during the joint meeting was that 10 acres is a minimum and the conversation was let's try this first – and it would be easier to change it and go down in the future. So if you have less than 10 acres you can't do it.

Member Willenbring stated that at the joint meeting there were a lot of participants at the meeting that did not have the same feeling. It should be on a graduated method. We are getting close to limiting property rights.

Corey Schreifels – 12450 235th Street, added that proposal you are saying that on ten acres I can have more houses than animal units. I can have three cows, but not multiple buildings.

Toni Honer stated that we have to remember the reason for the rural residential is to preserve farm land so when they lay out the site we will be very sensitive to that.

Mayor Hagen clarified the discussion in that we are looking at the person who has 40 acres and wants to sell it he can apply for 8 housing units. We have to consider a graduated method such as:

Minimum of 5 acres 1 animal unit
Use the graduated animal unit from the county or
Every acre over 10 acres you get 3 more animal units

Jerry Bechtold – 24353 125th Avenue asked how this relates to the county ordinance.

Susan Palmer commented that when we were working on this it was to encourage homes not agriculture.

Andy Molitor – 22942 County Road 140 asked did you ever consider going down to 5 acres – Yes this is what we are considering.

Corey Schreifels – 12450 235th Street – still wondering how grandfathering will come in.

Motion by Member Volkmuth, second by Member Howe, to close the public hearing at 8:30 p.m.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

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

**ORDINANCE #2011-70
RURAL RESIDENTIAL ORDINANCE**

AN ORDINANCE TO ALLOW FOR RURAL RESIDENTIAL DEVELOPMENT AND AMENDMENTS TO CORRESPONDING ZONING ORDINANCES

The Rockville City Council does hereby ordain as follows:

SECTION 16 A: Rural Residential District "R-R District"

SUBDIVISION 1 – PURPOSE AND GOALS

1. Purpose:

This district is established to provide areas for low density, rural residential structures in agricultural/rural areas on lands that due to substantial coverage by wooded areas, rock outcroppings, marginal soils, steep topographies where soil erosion is of risk and not conducive to long-term agricultural use; or negative impact on waterways from higher density residential is likely, etc. Some areas in this district are currently under agricultural production and can remain so. Residential development may be allowed in this district at an overall density up to 8 dwellings per 40 acres. Land within this district is not highly valued farmland nor is land located within any growth or expansion area of the City of Rockville. This district is likely located adjacent to agricultural areas and efforts to minimize land use conflict shall be a primary tool in approving development.

This R-R District will be identified on the City's Future Land Use map but will not be on the current zoning map until an area has been re-zoned to this district following a request for the same from the property owner(s).

2. Goals of the R-R District:

- a. Minimize land use conflict between agricultural and other land uses.
 1. Maintain suitable boundaries for urban, rural residential and agricultural areas.
- b. Manage the impacts of growth and development on the City's rural character.
 1. Discourage incompatible land uses through effective land use controls.
 2. Identify appropriate areas for commercial, industrial and non-farm rural residential developments.
- c. Provide a variety of residential opportunities.
 1. Provide a diversity of housing prices and styles, meeting the needs of different ages, incomes and lifestyles.

SUBDIVISION 2 – PERMITTED USES:

The following uses are permitted subject to any applicable performance and general development standards contained herein:

- a. Agricultural land uses providing that farm animals are not kept on parcels smaller than 5 acres with an animal unit density not greater than 1 per 5 acres, 2 per 10 acres, 3 per 11 acres, 4 per 12 acres, 5 per 13 acres. Etc.
- b. Family, group, "program", daycare facilities serving 12 or less.
- c. Single family residential dwelling unit
- d. Forestry

SUBDIVISION 3 - PERMITTED ACCESSORY USES

The following accessory uses and structures are permitted subject to the performance and general development standards contained in of this Ordinance.

- a. Accessory buildings (residential)
- b. Decorative landscaping features
- c. Home occupations
- d. Private swimming pools
- e. Private tennis courts
- f. Residential garages, parking spaces, carports
- g. Roadside stands for sale of home occupations, or horticultural products, provided off-street parking is provided
- h. Signs as regulated by ordinance

SUBDIVISION 4 – CONDITIONAL USES

The following uses may be allowed as conditional uses following the procedures set forth in this Ordinance and further subject to the performance and general development standards contained in this Ordinance:

- a. Airports or airplane runways
- b. Alcohol fuel plants
- c. Animal hospital
- d. Bed and breakfast inns
- e. Bulk liquid storage
- f. Churches, cemeteries
- g. Commercial Wireless Towers– personal wireless, microwave
- h. Contractor shops-cabinet, excavation, etc.
- i. Essential services, transmission services, utilities substations
- j. Event Centers
- k. Farm implement sales, fertilizer plants, grain elevators, greenhouses
- l. Farming, providing animal unit density is not greater than 1 additional unit per acre over 10 acres.
- m. Governmental buildings and structures
- n. Horticultural uses and structures designed for storage of products and machinery pertaining and necessary thereto.
- o. Outdoor recreational facilities-golf courses
- p. Schools – private and public
- q. Storage building as a principal use on a parcel of 10 acres or more.
- r. Wastewater treatment facilities
- s. Wind energy conversion systems (in accordance with other provisions in our existing ordinance).

SUBDIVISION 5 – INTERIM USES

The following uses may be allowed as interim uses subject to the procedures set forth in this Ordinance and further subject to the performance and general development standards contained in this ordinance:

- a. Extractive uses
- b. Temporary buildings located for purposes of construction on the premises for a period of time not to exceed normal, necessary construction time.

SUBDIVISION 6 – STANDARDS FOR DETERMINING PERMITTED RESIDENTIAL DWELLING SITES (BUILDABLE LOTS)

- a. Parcels of Record: Certain parcels of record recorded under separate deed and not containing five (5) acres may be allowed as residential dwelling building sites and shall be determined as follows:
 - 1) Any contiguous tract or parcel that is in common ownership with any other contiguous tract or parcel on May 1, 2011 but was recorded under separate deed prior to May 1, 2011 shall be considered a parcel of record and shall be eligible as a residential building site. At the owner's option, any tract or parcel determined herein to be a parcel of record may be combined with other tracts or parcels for determining the number of permitted residential dwelling sites.
 - 2) Any non-contiguous tract or parcel that is in common ownership on May 1, 2011 but was recorded under separate deed prior to May 1, 2011 shall be considered a parcel of record and shall be eligible as a residential dwelling site.

- b. Residential dwelling site eligibility: An eligible five (5) acre tract shall be any tract that does not contain any existing residential dwelling and meets either of the following:
 - 1) The tract contains five (5) acres more or less, must be platted using the Lot and Block system. The right of way of any public road adjacent and included in the description of said tract may be used for the 5 acres calculation.
- c. Density calculation: Determining eligibility for a residential dwelling site on a parcel or parcels within the R-R District shall be as follows:
 - 1) The property owner's total acreage owned on the parcel or parcels all within this district, less and except any land under the OHWL, shall be calculated.
 - 2) 5 acres for each existing residential dwelling and any equivalent land area previously restricted shall be subtracted from the total acreage owned.
 - 3) The results from (1) and (2) above shall be divided by five (5) acres and the quotient shall be the number of eligible divisions that are permitted for the parcel. Decimals of less than 0.80 shall be reduced to the nearest whole number and decimals 0.80 or greater shall be increased to the nearest whole number.

As an example of how unbuildable/buildable land would be handles by this provision, if 8 acres of a 20-acres parcel is unbuildable, 4 dwelling units would be allowed on the remaining 12 buildable acres; thereby maintain the required 1 dwelling unit per 5 acres density.
- d) Lot access requirements: Every tract or parcel, including out lots shall abut or have direct vehicular access to a public road and have a minimum road frontage equal to the required lot width. This public road may be an interior dedicated public right of way that is built by and maintained by the property owners and not by the city, provided the dedicated public right of way meets the minimum road width and other requirements of the city.

SUBDIVISION 7- LOT REQUIREMENTS

- a. The minimum lot size for a single-family residential dwelling shall be 5.0 acres of which 2.5 acres must be buildable.

SUBDIVISION 8 – SETBACK REQUIREMENTS

Except as provided in Section 9 – General Requirements Ordinance, the following setback requirements shall apply:

- a. Residential structures setbacks from side yard or rear yard: 50 feet
- b. Minimum width and depth of lots: minimum median lot width of not less than 250 feet and minimum median lot depth of not less than 300 feet.

SUBDIVISION 9 – HEIGHT REQUIREMENTS

- a. Buildings other than agricultural buildings; shall not exceed thirty-five (35) feet in height except as provided in this Ordinance.
- b. Agricultural buildings shall be exempt from the height requirements.

SUBDIVISION 10 – LOT COVERAGE

The maximum lot coverage shall be twenty-five percent (25%).

SUBDIVISION 11 - RURAL RESIDENTIAL PLANNED UNIT DEVELOPMENT (RR-PUD)**1. Purpose:**

To allow flexibility and creativity in design by offering alternative standards in what is currently designated SP-1 and A-40 zoning districts. This would allow property owners in agricultural areas within these 2 districts to develop non-productive land areas with residential dwellings with similar density and other standards as is allowed in the R-R District. In designing an RR-PUD the natural features such as wetlands, existing topography, soil types, woodlands and natural communities shall be considered to preserve rural character, enhance scenic vistas and protect sensitive environmental resources and provide areas for recreational use. A Rural Residential PUD may allow for the creation of distinctive neighborhoods by encouraging clustered residential development.

The RR-PUD is only allowed in overlay districts that have been designated on the City of Rockville Zoning Map. The RR-PUD must be approved through a Conditional Use Permit.

2. Objectives:

- a. Locate residential lots to avoid hydric and restrictive soils.
- b. Plat designs shall avoid lot locations that impact steep slopes, wetlands, floodplains, and other environmentally sensitive areas.
- c. Consider structures of historical significance, prime agricultural lands, endangered species protection, mature tree stands, and rare plant communities when designing layouts. Lots should be designed in a manner that offers highest preservation for natural corridors that are valuable for wildlife habitat, scenic enjoyment or agricultural production.
- d. Reduce the cost of construction and maintenance of public facilities, infrastructure and services.
- e. Provide a lot layout that maintains a low visual impact, particularly from arterial roadways and abutting properties.
- f. Facilitate road connections from one subdivision to another.
- g. Connect existing and potential open space lands, natural corridors and trail-ways whenever possible.

AMENDMENTS**SECTION 8**

“AGRICULTURAL LAND USE” means the cultivating or pasturing of a parcel of land or using it for the raising of animals for non-commercial purposes other than a feedlot or farming. Agricultural Land Use includes hobby farms.

SECTION 16 A-40**Subdivision 6: RESIDENTIAL DENSITY REQUIREMENTS**

1. *Except as otherwise provided in this Ordinance, only one (1) Single Family Residential Dwelling unit shall be allowed per forty (40) acres.*
2. ~~*Residential Development Rights may be transferred from one forty (40) acre tract to another forty (40) acre tract. The Planned Unit Development standards of this Ordinance must be met if any transfer results in the transfer of two (2) or more residential dwelling sites.*~~
3. ~~*The City will not accept transfers of Residential Development Rights from any other city or town into the City.*~~

SECTION 24 SP-1 SPECIAL PROTECTION AG-DISTRICT

Deleted in its entirety.

SECTION 26 PUD PLANNED UNIT DEVELOPMENT

In no event will a planned unit development be approved which allows for increased development within a SP-1 District.

SECTION 9 GENERAL REQUIREMENTS**Subdivision 6: DWELLING UNIT RESTRICTIONS**

- A. *Except and in the case of Planned Unit Development Districts and R-2 and R-3 and Rural Residential Districts, no more than one (1) principal building may be located on a lot. In the A-40 District a second dwelling may be located on the Lot by conditional use permit.*

Subdivision 25: FEEDLOTS

Section 6.7 of the Stearns County, Minnesota Zoning Ordinance (as amended) relating to feedlots is hereby adopted by reference in its entirety except for setback requirements. Existing feedlots cannot sub-divide their property and be closer than 700' from a new sub-divided lot.

SECTION 29: AMENDMENTS/REZONING

- A. *Petition. The owner of the subject property or ten (10) or more owners of property in the City may propose a zoning amendment or change, including a rezoning, by submitting fifteen (15) copies of a verified petition to the Zoning Administrator.*

Section 12. - Certification: The Rockville Administrator/Clerk shall certify to the adoption of this ordinance and cause the same to be published.

Section 13. - Effective Date: That this ordinance shall be and is hereby declared to be in full force and effect, from and after ten (10) days from the date of final passage and approval.

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

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

COMMITTEE REPORTS

- a) Mayor's Report - none
- b) Finance Committee - done
- c) Personnel Committee

BUILDING INSPECTOR - Chair Volkmuth reported the Personnel Committee met and interviewed two firms for the building inspection services and recommends retaining the services of Inspectron Inc. as they were a little cheaper and there were no issues with them.

Motion by Member Willenbring, second by Member Volkmuth, to retain the services of Inspectron, Inc. for the 2011 and 2012.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

STATUS OF FIRE FIGHTER – Chair Volkmuth reported that one fire fighter is requesting leave from the fire department and is also non-compliant with regard to First Responder certification. This individual is working in Iraq and his absence allows him to still earn credit for Fire Relief status.

Motion by Member Willenbring, second by Member Volkmuth, to give the fire fighter until 6/30/11 time to re-certify his First Responder status and also get his attendance back in line or least show he is making some sort of progress or he will be terminated.

Ayes: Becker, Hagen, Schmitt, Volkmuth & Willenbring

Abstaining: Howe & Simon

Motion passed on a 5 to 0 vote.

d) RTCB – Rena Weber reported that the RTCB is hoping that legislation gets approved whereby we do not have to do a 50/50 match on the 2008 grant. Member Willenbring informed the council that the attorney fees were never a part of the original grant.

e) EDA – Rena Weber reported that in 2005 the EDA was gifted a \$25,000 donation to start a revolving loan fund which did not happen. At this time the EDA wishes to survey our present business community to determine if they would have a need to expand and possibly use any of the money.

ADMINISTRATOR'S CORRESPONDENCE

AIR PATCHING EQUIPMENT RFA – Rena Weber reported that approval is also needed to complete the purchase of the air patching equipment in regards to the budget amendment and journal entry that goes with it.

Budget Amendment

Decrease Designated Funds 101-43100-317 -\$9100 (\$8500 Plus \$584.38 tax)

Increase Budget 101-43100-317 + 9100

Journal Entry reflecting the reduction in Designated Fund

DR Designated Fund

CR Unreserved Fund

Motion by Member Volkmuth, second by Member Simon, to approve the request as presented.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

AIR PATCHING EQUIPMENT – JPA – Rena Weber reported that the JPA for the air patching equipment is ready for approval. (Refer to Exhibit B as attached).

Motion by Member Volkmuth, second by Member Becker, to approve the Joint Powers Agreement for the purchase of the air patching equipment as presented.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

ADDITION TO THE AGENDA

DNR GRASS RIG – Don Simon reported the Fire Department would like approval for the transfer of a DNR grass rig from the City of Freeport. In addition the Fire Department would need to reimburse the City of Freeport for the pump that was constructed and installed on this grass fire fighting unit (\$1,000). The DNR does not charge for truck.

The Department would like to use designated funds to pay for the pump.

Also approve the following:

Budget Amendment

Decrease Designated Funds 101-42200-538 -\$1,000.00

Increase 2011 budget 101-42200-540 +\$1,000.00

Journal Entry reflecting the reduction in Designated Funds

DR Designated Funds \$1,000.00

CR Unreserved Funds \$1,000.00

Motion by Member Volkmuth, second by Member Schmitt, to approve the request for the DNR grass rig as presented:

Ayes: Becker, Hagen, Schmitt, Volkmuth & Willenbring

Abstaining: Howe & Simon

Motion passed on a 5 to 0 vote.

DELETION OF CITY FEES FOR PERMIT – CLARA & PEGGY HALL – Rena Weber presented a breakdown of costs for a building permit issued in 2007 that was never built and now the property owner is resubmitting a request for a smaller house and requests a reduction in the building permit cost. The only portion that can be considered would be the city's fee in the amount of \$286.00.

Motion by Mayor Hagen, second by Member Howe, to approve a reduction of the city fees in the amount of \$286.00 for Clara & Peggy Hall's building permit.

AYES: Becker, Hagen, Howe, Schmitt, Simon, Volkmuth & Willenbring.

Motion passed on a 7 to 0 vote.

OPEN FORUM

Dan Hansen – stepped up to thank the council for being so open with the audience during the public hearing process.

ADJOURNMENT – ***Motion by Member Becker, second by Member Howe, to adjourn the meeting at 9:04 p.m. Motion carried unanimously.***

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

**JEFF HAGEN
MAYOR**

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