

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY
SEPTEMBER 14, 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.

Other's present were: Lt. Adam Kedrowski, Stacie Clausen, Jeanna Miller, Kyria Greenly, Ev Balko, Jerry, Ellie & Brianna Alms, Mark Watson, Rita Nelson, Betsy Goebel & Sgt Joe Litchy.

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.

OPEN FORUM

No one appeared.

CONSENT AGENDA

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

- a) **Approve minutes of 08/17/2011**
 - b) **Approve Treasurer's Report of 09/14/2011**
 - c) **Approve List of Bills and Additions of 09/14/2011**
- | | |
|---|---------------------|
| Accounts Payable Check # 013139 to 13199 | \$232,630.51 |
| Payroll Check #004063 to 004074 | 10,131.55 |
| EFT #000553 to 000559 | 5,407.67 |

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

BOARD/STAFF REPORT

PLANNING COMMISSION – Rena Weber reported that as part of the new FEMA maps being approved the city has to adopt a floodplain management ordinance. I received a sample from the DNR and we are modifying it to our needs. It looks like we had until 2/15/2012 but the DNR wants to see a draft by November of this year.

PARK & RECREATION – RFA We as the Rockville Park & Recreation Board are requesting that the City of Rockville make a request to the county to do a "speed study" on County Road 139 north of the bridge.

Because of the increase use of Eagle Park and the addition of the new County Park, we feel a traffic study would be beneficial at this time to address safety concerns.

Rena Weber reported that the speed turns to 55 mph at the bridge and the sign should be moved further up to County Road 139 going north.

Member Willenbring cited that this idea came up at Park & Recreation Board meeting and that this in consort with the County Parks request, however he questions if another traffic study should be done when the road changes.

Mayor Hagen asked if we could just make a request to extend the 30 mph further instead of the speed study. Let's make it that type of request.

Ann Kunz –County Road 8 had also requested consideration of speed reduction from 45 35 between old and new Highway 23. She has discussed this with Mitch Anderson already.

Scott Hedlund reported that this would be a County request since it is a county road. You have to accept whatever they decide.

Mayor Hagen suggested we request an extension of the 30 MPH further on County Road 139 and also 35 MPH on County Road between old and new Highway 23.

Motion by Member Volkmuth, second by Member Willenbring, to request an extension of the 30 MPH further on County Road 139 from the bridge to the corner heading north and also 35 MPH between old and new Highway 23.

Member Willenbring asked if we can get the stop signs removed at the railroad crossings too. Rick Hansen reported that they are coming down.

Stacie Clausen stated that she would like to see the stop signs remain for safety or a yield sign -Bus Stop Ahead for her day care children.

Member Volkmuth amended his motion to include this in his motion, Member Willenbring concurred to add a Bus Stop Ahead sign near the tracks on County Road 139.

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

POLICE DEPARTMENT – Sgt Joe Litchy reported there were 37.5 contract hours for the month of August, 2011.

POLICE REPORT – LOUD NOISE COMPLAINT

Gina Miller – 331 Cedar Street stated she lived right behind Big Daddy's. She wanted to know how many of the council attended the benefit on Saturday night. The loud music happens all summer long – day or night. In addition there is screaming, yelling, fights, honking horns and dumping glass bottles into the dumpster at 1 in the morning. They have been told to contact the Sheriff's non-emergency number to stop this. It is as if they don't have time doing more important things than to come in and tell people to behave. By the time they arrive, things usually quiet down.

This past weekend pushed her over the edge of just being passive. The music this past Saturday was from 5:30 p.m. to 12:21 a.m. *The music should have been from 6 to midnight.* Her window shook and doors rattled.

She does feel she should find alternative housing on the weekends because of this. As far as the bar owners asking them if they are okay with this, no they did not contact them and we would have said no anyway. She hopes the council will require signed signatures from the residents prior to approving such events.

Member Schmitt reported that he did stop into the bar and asked them to tone it down. He was directed by the person at the door to talk to the Sheriff who told Big Daddies they could play it as loud as they wanted. When Jerry talked to the Sheriff he indicated they did not give that okay.

Mayor Hagen asked the Administrator to report on the conditions for approval:

- a) Approval from the neighbors
- b) Certificate of Insurance for the event listing the area
- c) 3.2 beer only
- d) Area roped off
- e) Certain hour they can operate

Mayor Hagen asked if we are asking for approval from the neighbors – in what form is that.

Rena Weber reported that people feel they have to sign the request as they feel intimidated to sign the form.

Kyria Greenly – 331 Cedar Street stated she is complaining about both bars. The windows do rattle, but it is the bikes from other bar taking off at 2 in the morning waking up the entire household. The strobe lights from the bars also woke them up.

Gerald Alms - 321 Cedar Street stated that it was the worst this past weekend. He has a window that was cracked a little, but is cracked all the way now. The bikes burning out at Stoney's – something has to be done – they should not be a prisoner in their own home.

Mark Watson – 13891 County Road 140 said he could also hear the music from his house in Cold Spring. He can hear the Side Bar in Cold Spring too. These businesses have to make a living too. If you live by a bar you have to expect this. He is selling his house so the neighbors can buy his house. It was loud – summer is short. You have to be fair to the people that live in the area, also fair to the bar owners too.

He listened to the last meeting and Betsy followed what you wanted. If you close them up – you don't have anything going on.

Member Schmitt stated that you don't see burn out marks in downtown Cold Spring.

Brianna Alms – 321 Cedar Street stated that she was complaining about not just Saturday night, but the out of handness that has been going on. Sunday afternoon there were two motorcycle drivers racing and burning rubber. As to Saturday night she did call the bar to ask them to turn down the music, which they did for a little while, but it was turned back up and there was no stopping them. Then someone started blowing an air horn. This is where she really objected. She has a little boy and he could not sleep. Betsy did turn the base down from 6 to 7. The apple tree lost all of its apples from the base. The air raid siren put it over the limit.

Member Schmitt questioned why should a person's right be infringed upon to make a bar successful?

Elle Alms – 321 Cedar Street stated that she does have arrhythmia and could not sleep. There is a general issue of bedlam. She is pro business, but they need to manage their business properly. On Saturday night the biggest issue was that the base was beyond torture. Her dishes were singing, the back door throbbing and the front window cracked. Also, her sliding glass door thumped, thumped. This has to be managed and she urged the council to look at the noise ordinance. They were under the ordinance guidelines, but it needs to have more constraints such as being within a decibel level and some means to control what happens in the community.

Stacie Clausen – 141 1st St W stated she did not really hear it, but rather enjoyed it while sitting at her campfire. She can however, hear the motorcycles downtown at 2 or 3 in the morning when they leave the bar. They are probably drunk and should not be driving. Her biggest issue is the motorcycles.

Betsy Goebel stated that she does feel terrible. The setup outside was not the way it was supposed to be. The equipment used was from someone else and was used for Halfway Jam. It was louder than she thought it would be. How do we notify people down the block – where do we start? They did not want to hurt their neighbors, and does not want everybody in town hate us. She feels terrible that this is how it turned out. She too agrees that the motorcycles are a problem.

Member Schmitt asked if the smokers can move to the front of the building.

Sgt Litchy indicated the bar owners can request the Sheriff's in for a certain time or the city can require that they hire a deputy for the entire event.

Mayor Hagen stated that this is an issue of balancing business rights and resident's rights. This got way out of hand. The city holds the bar owner responsible for that. They need to control it, each band got louder instead of lower, the bar owners have to control it. As far as getting permission it is not happening now. How can we make that better?

Member Volkmuth stated we need to take a common step here and have a sheriff here all the time. The air raid siren was really asinine when people are sleeping. People need to use common sense. The loud base he can't understand why this was allowed. Motorcycles – can't understand that either.

Mayor Hagen asked if a citizen can file a complaint about the motorcycles.

Sgt Litchy stated they can, but they have to identify the driver.

Member Becker indicated that maybe we ask the county to take care of motorcycles (saturation on speed, drunk driving, and burn outs).

Member Volkmuth stated we are putting both bars on notice – this has to stop.

Member Schmitt indicated that while driving through town he noticed people drinking outside Stoney's. Paul Betz stated he will try and get that to stop too.

Motion by Mayor Hagen, second by Member Willenbring, to require police for each event, with the cost borne by the event holder. Further we will define what the event will require such as set the decibel limit and distance for notification,

Discussion was held regarding decibel limit and how that would be measured.

The decibel limit was withdrawn and staff will research a solution with input from all for bars.

Member Becker suggested we assign review of the noise ordinance to staff, who will make recommendation to the council.

Member Howe stated he wants input from the bars.

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

PUBLIC HEARING – Xcel Energy Gas Franchise – Rena Weber reported the ordinance has been approved by both the attorney and Xcel Energy and recommended approval of the summary ordinance for publication.

Motion by Member Volkmuth, second by Member Willenbring, to close the public hearing at 7:02 p.m.

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

Member Volkmuth introduced the following ordinance for approval

ORDINANCE NO. 2011-72

AN ORDINANCE APPROVING XCEL ENERGY GAS FRANCHISE AGREEMENT.

The Rockville City Council ordains:

SECTION 1. Ordinance No. 2011-72 establishes standards for a gas franchise agreement with Xcel Energy in the City of Rockville.

SECTION 2. The City Council determines that the text of the summary of Ordinance No. 2011-72, a copy of which is attached as Exhibit A, clearly informs the public of this Ordinance's intent and effect. The City Council further determines that publication of the title and such summary will clearly inform the public of this Ordinance's intent and effect.

SECTION 3. A complete, printed copy of this Ordinance will be available for inspection by any person during regular office hours at the Clerk/Administrator's office.

SECTION 4. Four-fifths (4/5) of the City Council's members direct the Clerk/Administrator to publish only the title and summary of this Ordinance.

SECTION 5. This Ordinance shall be effective immediately upon its passage.

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.

NEW BUSINESS

WARRIOR TO CITIZEN REPORT- Lt. Adam Kedrowski was present to report on the Warrior to Citizen status and Beyond the Yellow Ribbon Network which this community is a part of. This is a support group that is seeking more people on the committee. They need a network of community resources working together such as business, religious, and local community officials. Officers coming back from the war have legal needs and medical needs. The group also hosts and provides resources for deployment and welcome home ceremonies. Last week they raised \$1000 to \$1500 at Texas Roadhouse. Other areas where help is given are: volunteer plumbing, day care, etc. Lt. Kedrowski suggested members check out the web-site at www.beyondtheyellowribbon.org.

STACIE CLAUSEN - 141 1st STREET EAST was present to request approval to install a fence in the public right of way. Rena Weber reported that according to the fence ordinance:

Public Right-of-Way. Fences are not permitted on public right-of-way, or on boulevard areas without the City Council's prior written permission.

Stacie runs a day care and would like to put up a fence that would extend into the right of way. She is in a residential area where this could be granted as long as no line of sight is blocked and that she understands if the city needs to dig in the area for any reason – her fence would have to go and she would have to pay to place it back again.

Stacie Clausen indicated that is a safety issue. She lives next to Tудie Hermanutz who has signed an agreement that she is not opposed to the fence. Stacie has a huge play set that would have to be moved if she can't build the fence. She agrees that the snow may be a problem, and understands that she would be responsible if the city needs to dig in the right-of-way.

Rick Hansen requested the water meter be on the outside of the fence so they can read it.

Motion by Member Volkmuth, second by Member Willenbring to approve the request to install a fence in the public road right-of-way pending certain requirements and waiving of any liability on the part of the city.

WAIVER OF LIABILITY **HOLD HARMLESS AGREEMENT**

In consideration of the acceptance of my request for the installation of a fence in the Road Right of Way at 141 1st Street West, I hereby freely agree to and make the following contractual representations and agreements.

I assume the risks associated with the installation of a 6' high privacy fence and to place it 8 ½ feet from the edge of roadway. Said risk will include removal of the fence if a repair of city road deems it to be removed or if the city needs access to work in the right of way for any reason. I also agree that should there be significant snowfall(s) and the clearing of roads for safety reasons causes the fence to fall, I will be responsible for all repairs. I will provide access at all times for the water meter reader to carry out their duties. I will hold the City of Rockville harmless from all claims of injury or damage. Furthermore, I will indemnify the City for any claims or actions relating arising out of the activity to be done under this agreement.

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

Motion passed on a 7 to 0 vote.

CRIMINAL ATTORNEY CONTRACT – Rena Weber reported that Matt Quinn of Attorney Kendall's office has supplied us with the background information you requested. I also have a complete listing of every case they handled so if you want to see it.

Motion by Member Volkmuth, second by Member Becker, to approve the contract agreement for criminal prosecution for 2012 & 2013 at \$12,500 per year.

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

NAYS: Howe

Motion passed on a 6 to 1 vote.

2012 BUDGET AND TAX LEVY – Rena Weber reported the levy represents a 6% increase allowing for \$185,000 on road construction.

Member Volkmuth further reported:

- ◆ In 2014 we will be done with Stearns County 0% interest loan for payment of city hall and the Finance Committee will relay this amount into roads
- ◆ The Fire Department requested an increase in their wages from \$9 to \$10/hour and paying for training.
- ◆ Their original budget was \$192,000, then 164,000 and finally \$140,000

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

RESOLUTION NO. 2011-15

RESOLUTION ADOPTING PROPOSED TAX LEVY

RESOLUTION APPROVING 2011 TAX LEVY, COLLECTIBLE IN 2012

Be it resolved by the council of the City of Rockville, County of Stearns, Minnesota, that the following sums of money be levied for the current year, collectible in 2012, upon taxable property in the City of Rockville, for the following purposes:

CITY OF ROCKVILLE	SUPPLEMENT TO REGULAR
2011	LEVY FORM
CERTIFIED LEVY	LEVY AMOUNT
LEVY PURPOSE	(PLEASE ROUND TO WHOLE DOLLARS)
Revenue-Fund 101-41000	525,880
Fire Protection-Fund 101-42200	118,854
Economic Development- Fund 209	1,000
Road & Bridge Maintenance-Fund 215	129,845
Special Levies Outside of Levy Limits:	
Certificate of Indebtedness Pumper Truck Fund 101-42200	20,530
Lake Improvement District Fund 221-41000	14,500
2009A/1998 G.O. Utility Revenue Bond Disposal Portion-Fund 310	13,015
2004 Prairie Ind. Park Imp. Bond-Fund 305	3,029
City Facilities-City Hall/Fire Hall-Fund 304	214,850
City Facilities-City Hall/Fire Hall-Fund 304 Detachment	8,228
CR 82 Imp (& SJ Louis) Bond Fund 308	14,179
TOTAL NET TAX CAPACITY BASED LEVIES	
TOTAL CERTIFIED LEVY	\$1,063,910

The City Clerk is hereby instructed to transmit a certified copy of this resolution to the county auditor of Stearns County, Minnesota and also schedule the public meeting on 12/21/11 at 6:30 p.m.

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

Member Simon voiced concern that \$164,000 is what the Fire Department members were told and then they had to come down even further.

Member Simon also feels that General Government – Road & Bridge fund at \$185,000 should be \$200,000. He also stated he would not drive the red truck anywhere. This is a safety issue, it gets 4 mpg and we should put money there.

Member Simon also felt that for temp employees we should look at Greenview Management.

Member Howe questioned the market value homestead credit and what it will do to taxes.

Member Simon indicated that you will see an increase.

Member Volkmuth indicated with another \$15,000 we are looking at a 10% increase.

Member Willenbring indicated that at \$1,063,910 we are bumping up against the max.

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

NAYS: Simon

Motion passed on a 6 to 1 vote.

SCHEDULE PUBLIC HEARING FOR ASSESSMENTS – Rena Weber requested council approval to schedule a public hearing for the final assessments on the Lena Lane/Ahles Road Improvement project.

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

CITY OF ROCKVILLE

RESOLUTION NO. 2011-17

RESOLUTION DECLARING COST TO BE ASSESSED, ORDERING PREPARATION OF PROPOSED ASSESSMENT AND SCHEDULING HEARING ON PROPOSED ASSESSMENT

WHEREAS, a contract has been let and costs have been determined for the improvement of Ahles Road and Lena Lane, and the costs for such improvement are \$274,000.00.

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

1. The portion of the cost of such improvement to be paid by the city or other sources is hereby declared to be \$230,690.00 and the portion of the cost to be assessed against benefitted property owners is declared to be \$43,310.00.
2. Assessments shall be payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday in January, 2012, and shall bear interest at the rate of 4.75% percent per annum from the date of the adoption of the assessment resolution, in accordance with other provisions of the Assessment Policy.
3. The City Engineer shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, as provided by law, and he shall file a copy of such proposed

assessment in the City Hall for public inspection at least two weeks prior to the public hearing declared below.

4. A hearing shall be held on the 16th day of November, 2011, in the City Hall at 6:30 p.m. to pass upon such proposed assessment, and at such time and place all persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.

5. The city clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and he shall state in the notice the total cost of the improvement. She shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearings.

6. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City Clerk, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of the assessment. He may at any time thereafter, pay to the County Auditor the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year. In addition if the property is split or sold then the remaining assessment is due and payable in full at the time of event.

7. If any of the assessments are granted deferment the time is for up to 10 years, but the balance shall be paid in full upon the conclusion of the 10 years.

8. The City Council hereby reserves the right to reimburse itself for all or a portion of the amount not assessed against benefitted properties from the proceeds of a bond sale.

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.***

COMMITTEE REPORTS

MAYOR - None

FINANCE – Member Volkmuth reported that the Finance Committee met with the Rock Fest Committee recently and reviewed the city costs associated with the event. The committee recommends deleting the bill for time incurred above the \$600.

Motion by Member Volkmuth, second by Member Willenbring, to delete the \$337.35 bill for time incurred by city staff for the 2011 event.

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

RENTAL SUB-COMMITTEE – There was nothing to report.

RTCB - MEMORANDUM OF UNDERSTANDING AMENDMENT – Rena Weber reported that the RTCB is recommending approval of the MOU as amended to allow for the legislative change that was approved this year.

Motion by Member Volkmuth, second by Member Howe, to approve the memorandum of understanding as presented.

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

Motion passed on a 7 to 0 vote.

GRAND LAKE LID – Rena Weber reported the Grand Lake LID is requesting the same budget amount of \$14,500 again this year. They also re-elected Scott Palmer and Bob White back to the Board.

Motion by Member Volkmuth, second by Member Simon, to approve the \$14,500 budget request for 2012. Further the Council also approves the appointments of Scott Palmer and Bob White to the LID Board.

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

Motion passed on a 7 to 0 vote.

ADMINISTRATOR’S REPORT

MISCONCEPTIONS – Rena Weber reported there are some misconceptions out there that she would like to correct.

Maintenance staff is not putting in 20 hours/week in overtime. Total OT to date is 89.25 hours and this was for: snow removal, salt/sand, lift station alarm, water tower alarm, storm damage, road issues, and to open doors.

Supposedly there were 16 trees killed by the mower cutting too close to the tree. That was looked at by Paul Wirth and Rick - # is 0 – 1 maybe.

OPEN FORUM

RITA NELSON – 21367 County Road 8 was present to voice concern for “lack of signage” on County Road 8 by Grand Lake. There are 8 no parking signs and the traffic has increased. It seems that there is this I don’t care attitude or a lack of education that it is 35 mph.

Ms. Nelson asked if on the no parking signs if 30 mph signs could be placed. She also voiced concern that the heavy trucks driving on the road are a detriment to the road and shoreline.

Member Schmitt asked if she voiced concern with Mitch Anderson from Stearns County. Ms. Nelson has talked to various county people already and will continue to do so.

ADJOURNMENT – ***Motion by Member Volkmuth, second by Member Becker, to adjourn the meeting at 7:38 p.m. Motion carried unanimously.***

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

JEFF HAGEN
MAYOR

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