

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,
OCTOBER 15 2014 – 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 Sue Palmer, Don Simon, Duane Willenbring & Randy Volkmuth. Absent: None

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Nick Waldbillig, Maintenance Mechanic Sam Simon, Lt. Jon Lentz and Engineer Dave Blommel.

Others present were: Diane Willenbring, Maria Fussy, Al Schneider, Tудie Hermanutz, Richard Tallman, Paul Wirth, Bill Becker, George Bechtold, Carol Dietman, Ev Balko & Tim Byram.

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

1. Policy regarding contacting 3rd party contracts for the city.
2. Remove 2 RFA's from the agenda – PW Well house bids & FD – Boat bid

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.
Motion passed on a 5 to 0 vote.

OPEN FORUM

Tim Byram – 25807 80th Avenue asked about the hammerhead on 80th Avenue stating that a survey was done. He feared they would get lost over winter. Sam Simon reported that metal stakes will be in the ground.

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

- a) Approve minutes of 09/10/14
 - b) Approve Treasurer's Report of 10/15/14
 - c) Approve List of Bills and Additions 10/15/14
- | | |
|---|-------------|
| Accounts Payable CK #015550 to #015618 | \$45,459.63 |
| Payroll CK #004759 - #004768 #004800 to #004812 | 17,997.97 |
| EFT #000861 Void #000862 to #000873 | 10,776.42 |

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.
Motion passed on a 5 to 0 vote.

BOARD/STAFF REPORT

POLICE – Lt. Jon Lentz stated there were 34.5 contract hours for September and cited the issues.

PUBLIC WORKS – Nick Waldbillig & Sam Simon requested the following:

Well #2 Building repair – Nick and Sam reported they had not gotten any bids yet.

Water Line Repairs – Sam reported that two places need waterline repairs before winter. They are: Schaefer Auto Electric 242 Broadway Street W and 351 Chestnut Street. These are both water service lines with low pressure from the curb box to the corporation valve. Pavement is not included in the bid. *(It should be noted that the bid was \$3800 each not both).*

Motion by Member Volkmuth, second by Member Simon, to approve the water line repairs as stated with asphalt replacement being an extra cost.

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.
Motion passed on a 5 to 0 vote.

Truck Replacement- Nick Waldbillig reported that approval to purchase a snow plow at \$109,000 was given last January. Nick asked for council approval to spend that money without coming back to the council for approval since some of the trucks they are looking at are bids.

Member Palmer asked what the lifespan is of a used one. Are we spending on somebody else's problem?

Nick reported that one of the trucks has an under blade that could save money in the long run if used for grading in the summer.

Motion by Member Volkmuth, second by Member Willenbring, to authorize the purchase of a snow plow truck not to exceed \$109,000 plus the trade in.

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

PLANNING COMMISSION – Rena Weber reported on the following:

SUSAN DEAN QUALIFIED MINOR SUBDIVISION Rena Weber stated this had been brought to your attention a year ago. Tract A and B at one time were separate lots, then the state of Minnesota combined them. The current cabin is over the line. Now they want to sell. Susan Dean wants to keep one lot and her sister will have the other lot. There was a series of questions posed by the City attorney that resulted in a yes to the subdivision. This subdivision was recommended for approval by the Planning Commission.

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

RESOLUTION NO. 2014-21

A RESOLUTION APPROVING A QUALIFIED MINOR SUBDIVISION

WHEREAS, a request has been received from Susan Dean & Debra Dean-Ciriani Family to approve the subdivision of two lots, and;

WHEREAS, a public hearing to consider the request was held before the Rockville Planning Commission on 10/14/14, and;

WHEREAS, proper notification was given and published notice was published in the Cold Spring Record, and;

WHEREAS, all persons attending the hearing were given an opportunity to address the Planning Commission.

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

- 1. The request to subdivide Parcel #76.41705.0016 into two lots is hereby approved.***
- 2. Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.***
- 3. That granting of the rezoning will not be detrimental to the public health, safety, comfort and general welfare of the City.***

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

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

ANDREW & EUNICE MOLITOR – Rezone, Subdivision & possible variance Andrew and Eunice wish to subdivide 20 acres from a 100 acre parcel. These were 2 separate lots at one time and were put together for taxing reasons. This 20 acre parcel would need to be rezoned in order to allow any building. Also a subdivision would need to be approved. Lastly, a variance may or may not be needed depending on where the boundary is for the neighboring feedlot. A concern that needs to be addressed is the RR being used for crops now.

Member Palmer reported that the Planning Commission tabled action on the requests as there was more information needed. One property owner had not supplied boundaries for their feedlot to Stearns County and that could come into play with the request.

There was also one letter opposed to the split.
No action was taken.

JEFF & KARI PATTON – Rena Weber reported on the following:

The Patton's tore down their old garage and wish to build a new one this fall. They will exceed the impervious surface if approved.

Re: Variance Request

76.42240.0056: Owner: Jeff & Kari Patton

Property Address: 152 Broadway Street West, Rockville, MN 56369

Legal Description: W 4.70' of Lot 1 & all of Lot 2 & E 30' of Lot 3 less RR, Townsite of Rockville.

Variance(s) Requested:

1. Variance to construct a 936 sf unattached garage and to vary from impervious surface lot coverage requirements – no more than **25% required. Proposed 3973 which is 1268.75 over**

Relevant Information:

1. R-1 Single Family District.
2. Existing garage was torn down to make room for a new one.
3. The lot to the north of the property is currently the railroad track.
4. 24 Notices of Public Hearing were sent out.

Recommendations:

1. Maintain existing drainage patterns over, under, and across their property.
2. Proper temporary and permanent erosion control measures (BMP's) shall be implemented during and after construction to minimize sediment leaving the site; this would include proper installation of silt fence or bio-rolls on the down gradient side(s) of any excavations or earth disturbing activities, and subsequent re-vegetation of the disturbed areas soon after work is completed. It appears there are wetland(s) nearby north of the property.
3. This property is over the 25% and the 30% impervious surface requirement which were done prior to the ordinance and by previous property owners.
4. Mitigation needs to be done to capture the 1268.75 SF overage,
5. New garage must match the house.

Jeff Patton has agreed to provide 8 rain barrels as their way to mitigate storm water.

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

RESOLUTION NO. 2014-22

RESOLUTION GRANTING A VARIANCE FROM IMPERVIOUS SURFACE

WHEREAS, A request has been received from Jeff & Kari Patton for a variance from Impervious Surface to construct an unattached garage in the R-1 District, and; WHEREAS, said structure exceeds impervious surface by 1268.75 square feet, and; WHEREAS, Proper notification and publication had been given, and; WHEREAS, all persons were given an opportunity to be heard on said request. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ROCKVILLE, STEARNS COUNTY, MINNESOTA:

1. **Said request is hereby approved to construct the unattached garage, provided that 1268.75 square foot overage is mitigated and constructed according to design, and maintained.**
2. **Said approval will not create undue hardship, is a unique circumstance, and applies to the individual property.**
3. **That granting of the variance will not be detrimental to the public health, safety, comfort and general welfare of the City.**

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

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

DALE HOMMERDING-401 OAK STREET - Dale Hommerding sent a letter to request extension of the Condition Use Permit granted to him one more year. Mr. Hommerding owned the house that burned down two years ago and has received an IUP to keep the shed there.

Discussion was held regarding the shed being rented out. Members would like to see a for sale sign on the property and uphold the ordinance.

Member Willenbring stated that renting out the shed to pay the taxes is not a negative.

Motion by Member Volkmuth, second by Member Palmer, to grant a 6 month extension and no more.

AYES: Hagen, Palmer, Simon & Volkmuth.

NAYS: Willenbring

Motion passed on a 4 to 1 vote.

STEARNS COUNTY SHERIFF CONTRACT RENEWAL – Rena Weber reported that there is no change to the renewal of Stearns County Sheriff contract for 2015.

Motion by Member Willenbring, second by Member Volkmuth, to approve renewal of the Stearns County Sheriff's contract for 2015 as presented.

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

BUGS & BUDDY PUB & GRUB – Rena Weber reported that Mark Schneider is seeking approval of liquor licenses for the old Big Daddy's bar. Mark is hoping to make this more of a restaurant with liquor than just a bar. The necessary paperwork still needs to be provided.

Motion by Member Volkmuth, second by Member Palmer, to approve the liquor licenses for Bugs and Bunny Pub & Grub to Mark Schneider with proper paperwork being supplied.

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

ORDINANCE NO. 2014-82 ADOPTING THE UPDATED MN BASIC CODE – Mayor Hagen announced that the public hearing would now be held to consider adoption of Ordinance No. 2014-82.

Rena Weber reported that at the 9/10/14 meeting she presented a request for approval to purchase the updated MN Basic Code citing: "The new MN Basic Code of Ordinances contains many changes from previous editions, which are now out of date and contain many illegal and/or unenforceable provisions. Failure to adopt the new edition of the MN Basic Code may subject your city to civil liability! Many provisions of the older editions are now unenforceable due to changes in statutes or court decisions!" This came directly from the League of MN Cities.

No person appeared in approval or opposition to the ordinance.

Motion by Member Volkmuth, second by Member Willenbring, to close the hearing at 6:32 p.m.

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

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

**ORDINANCE NO. 2014-82
AN ORDINANCE ENACTING THE CODE OF ORDINANCES FOR THE CITY OF
ROCKVILLE, MINNESOTA,
ADOPTING THE MINNESOTA BASIC CODE OF ORDINANCES, 2014 EDITION AND
AMENDING, RESTATING, REVISING, UPDATING, CODIFYING AND COMPILING CERTAIN
ORDINANCES OF THE CITY DEALING WITH THE SUBJECTS EMBRACED IN THE CODE
OF ORDINANCES, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE CODE OF
ORDINANCES.**

WHEREAS Minnesota Statutes Section 471.62 authorizes the city to adopt the Minnesota Basic Code of Ordinances by reference, and Sections 415.02 and 415.021 authorize the city to cause its ordinances to be codified and printed in a book,

NOW THEREFORE the City Council of the City of Rockville, Minnesota, ordains:

Section 1. The Minnesota Basic Code of Ordinances, 2014 Edition, together with amendments and supplements contained therein, is hereby adopted and shall constitute the Code of Ordinances of the City of Rockville, MN. This Code of Ordinances also adopts by reference certain statutes and administrative rules

of the State of Minnesota as named in the Code of Ordinances. It is the intention of the City Council that, when adopting the Minnesota Basic Code of Ordinances, all future amendments and supplements are hereby adopted as if they had been in existence at the time this Ordinance was enacted, unless there is clear intention expressed in the Code to the contrary.

Section 2. The Code of Ordinances as adopted in Section 1 shall consist of the following titles and those existing city ordinances also listed in Section 3.

TITLE I: GENERAL PROVISIONS

- 10. General Provisions (*)

TITLE III: ADMINISTRATION

- 30. General Provisions (*)
- 31. Departments, Boards and Commissions (*)
- 32. Emergency Management (*)

TITLE V: PUBLIC WORKS

- 50. Garbage and Rubbish
- 51. Sewer Regulations
- 52. Water Regulations
- 53. Storm Water Drainage Utility
- 54. Rates and Charges

TITLE VII: TRAFFIC CODE

- 70. Traffic Regulations
- 71. Parking Regulations
- 72. Snowmobiles
- 73. Recreational Vehicles
- 74. Bicycles, Roller Blades, Roller Skates, Roller Skis and Skateboards

TITLE IX: GENERAL REGULATIONS

- 90. Abandoned Property
- 91. Animals (*)
- 92. Health and Safety; Nuisances (**)
- 93. Streets and Sidewalks (*)

TITLE XI: BUSINESS REGULATIONS

- 110. General Licensing Provisions
- 111. Commercial Amusements
- 112. Liquor Regulations
- 113. Peddlers and Solicitors
- 114. Tattoo and Body Piercing Services
- 115. Tobacco Regulations
- 116. Regulating Lawful Gambling
- 117. Garage and Rummage Sales
- 118. Regulation of Public Dances and Special Events
- 119. Sexually Oriented Businesses (**)

TITLE XIII: GENERAL OFFENSES

- 130. General Offenses

Section 3. All prior ordinances shall be deemed repealed from and after the effective date of this ordinance, except as they are listed in this section; provided, this repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall this repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public

improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall this repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code of Ordinances. All fees and charges established in ordinances or resolutions adopted prior to the adoption of this city code shall remain in effect unless amended in this code or until an ordinance adopting a schedule of fees and charges is adopted or amended.

These are the prior ordinances that shall remain in effect:

ZONING ORDINANCE
AMENDMENTS

2003-03 State Fire Code
2003-04 Basic Code
2003-06 Special Protection District Overlay
2004-10 Adopting State Building Code
2004-14 Public Land Dedication
2004-18 Definitions
2004-19 Setbacks from Wetlands
2004-20 PC holds Public Hearings
2004-23 Brentwood Hill PUD Agreement
2004-24 Subdivision Ordinances
2004-25 Towers
2005-26 Chair Person Voting Rights
2006-28 Moratorium-Development, Subdivision, Use of Certain Land
2006-31 Amend Special Protection District
2006-35 Moratorium-Subdivision, Use of Certain Land
2007-38 Moratorium-Subdivision of Shoreland
2007-39 Moratorium-Transfer Dev Rights
2007-41 Amending Accessory Structure
2007-42 Water Oriented Structures
2007-43 Setback for Industrial Zoned
2007-44 Park Land Dedication
2008-49 Amending Platting Fees
2008-50 Shoreland Property
2008-51 Stormwater Management
2008-53 Event Centers
2009-54 Amend Definitions
2009-58 WECS (Wind Energy Conversion System)
2009-60 Amend Park Land Dedication
2009-61 Amend WECS (Wind Energy Conversion System)
2009-62 Allow Farm Animal (R1, R2 R3)
2011-69 Right to Farm
2011-70 Rural Residential Districts
2011-73 Floodplain Management
2012-74 Amending Certain Section (Definitions, Signs, B-1-Residential purpose, I-1)
2012-76 Amending Rural Residential District (RR)

ORDINANCE AMENDMENTS
GENERAL

2002-01 Rental Licensing
2003-02 Fireworks
2003-07 Parking of Vehicles
2003-09 Noise Ordinance
2004-17 Off-Sale Liquor Licenses
2004-21 Use of Snowmobiles
2004-22 Use of ATV'S
2006-32 Use of City Parks
2006-33 Charitable Gambling
2007-37 Renaming Streets
2008-52 Amend Mayor & Council Pay
2009-59 Regulating Dogs
2009-63 Amend PC Membership
2010-65 Reducing Council Size
2010-67 Electric Franchise
2011-71 CenterPoint Gas Franchise
2011-72 Xcel Gas Franchise
2012-75 Winter Parking/Snow Removal
2013-77 Shade Tree Ordinance
2013-79 Amending the Rental Ordinance
2014-80 Amending Cable TV Rental Agmnt

ORDINANCE AMENDMENTS WATER/SEWER

2003-08 Recovery Costs of Wastewater
2003-08A Use of Wastewater
2004-13 Lake Area-Sewer Rates
#55 Establishing Connection fee for Water & Sewer
2004-16 Downtown Area Water/Sewer Rates
2008-48 Amend Water Rates
2009-57 Amend Water Rates
2010-66 Amend Water Rates
2011-68 Amend Charitable Gambling
2013-78 Amend Water Rates & Volume Fees

Section 4. This ordinance adopting the Code of Ordinances shall be sufficient publication of any ordinance included in it and not previously published in the city's official newspaper. The Clerk of the city shall cause a substantial quantity of the Code of Ordinances to be printed for general distribution to the public at the actual cost and shall furnish a copy of the Code of Ordinances to the County Law Library or its designated depository. The official copy of this Code of Ordinances shall be marked and kept in the office of the City Clerk.

Section 5. It is the intention of the City Council that, when adopting the Minnesota Basic Code of Ordinances and any supplements or additions to it, that all existing and future amendments to any state or federal rules and statutes adopted by reference or reference in the Minnesota Basic Code of Ordinances and any supplements or additions to it are hereby adopted by reference or referenced as if they had been in existence at the time the Minnesota Basic Code of Ordinances and any supplements or additions to it was, are or may be in the future adopted, unless there is clear intention expressed in the Code to the contrary.

Section 6. It is the intention of the City Council that, when adopting the Minnesota Basic Code of Ordinances, all future supplements are hereby adopted as if they had been in existence at the time this code was enacted, unless there is clear intention expressed in the code to the contrary.

Section 7. The Code of Ordinances is declared to be prima facie evidence of the law of the city and shall be received in evidence as provided by Minnesota Statutes by the Courts of the State of Minnesota. A copy of the

Code of Ordinances marked “Official Copy” shall be filed as part of the official records of the city in the office of City Clerk. The City Clerk shall provide a copy of the Code of Ordinances to any person who requests a copy and shall charge that person the cost to the city of the copy of the Code of Ordinances.

Section 8. This ordinance adopting the Code of Ordinances, and the Code itself, shall take effect upon publication of this ordinance in the city’s official newspaper.

Section 9. Any amendments to a statute or rule adopted in this Code or any former code or ordinance which continues to be in effect, shall be included by reference as if the amended statute or rule had been in existence at the time the Code or ordinance was adopted.

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

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

Member Willenbring reported that he did his research with the League too and concurs with the Administrator.

ADDITIONS TO AGENDA

3RD PARTY CONTACT – Mayor Hagen voiced the following:

“Rockville’s Policy on Residents Contacting City Contractors: Attorney, Engineer, Billing Software, etc.

1. Received several calls recently regarding this issue of impersonating a councilor; combined with the legal action that Stearns County Attorney took; I felt it is something the council should discuss.
2. First, briefly summarize what occurred. Rena was notified that a resident represented himself as a city councilor and requested our billing software provider to do some work for him. This person was not a councilor.
3. We advised this provider not to do any work without city approval and we received a copy of an internal memo from the provider advising their employees not to do any work for this individual. *(A copy of the memo is attached and marked Exhibit A)*
4. We asked the city attorney to advise us on this matter and he instructed us to turn it over to the Stearns County Attorney’s office for their review.
5. Stearns County decided to take legal action was warranted and they continued the process until most recently the witness changed her mind and decided not to testify.
6. When asked if they knew why this witness changed her mind on testifying, Stearns County told us that they didn’t know, but they did know that the defendant had hired legal counsel that had hired a private investigator that had made contact with the witness at her place of employment.

Without a witness willing to testify, there is no case to be tried. This doesn’t mean this didn’t happen. Regarding the expense to the city for this legal action, I believe that the total cost for our legal fees with our city attorney were less than \$200; as we contract with Stearns County on a fixed annual fee basis and all other costs were borne by the County.

So, to minimize the chances of something like this happening again I felt it was something the council should review and discuss as to whether we need to include a policy regarding this, with notification to all city contractors as to who they are to take direction from, especially as it concerns generating expenses to the taxpayers.

I feel that only the city administrator should have that authority at the direction of the council, mayor, or by standard operating procedures.”

Member Volkmuth stated that no one from outside of the council should be contacting 3rd party contracts. As to the Attorney – Mayor and Administrator only.

Member Palmer agreed adding that depending on the issue it should be remanded back to the appropriate committee. The Committee has authority – if needed.

Member Simon felt all requests should go through the Administrator.

Member Willenbring felt there will be push back. There already is a policy. You can call the 800 number and speak to someone. Where do we stop? Is this a knee jerk reaction to a one time incident? A large amount of time was spent by staff creating this.

Mayor Hagen suggested we add verbiage to the current policy on contacting the attorney to add 3rd party contractors. Without direct approval of the council only the city administrator can contact.

19.3 Contact with City Attorney *The Mayor and members of the City Council must obtain approval from the Council before contacting the City Attorney. In extraordinary cases, the Mayor may authorize contact with the attorney, but the person who made the contact must report on it to the City Council at the next council meeting. They must also notify the Administrator/Clerk when contact has been made, for purposes of verification with the attorney's invoice.*

The Administrator/Clerk has authority to contact the City Attorney only when necessary.

Motion by Mayor Hagen, second by Member Palmer, to instruct the Administrator/Clerk to draft a policy change to include contacting 3rd party contract to “without direct approval of the council only the city administrator can contact them. Member Palmer wished to add a friendly amendment to state that a letter will be sent to all 3rd vendors informing them of the policy change.

AYES: Hagen, Palmer, Simon, Willenbring & Volkmuth.

Motion passed on a 5 to 0 vote.

COMMITTEE REPORTS

RTCB – Member Willenbring had nothing new to report.

FINANCE –

WATER CONSERVATION RATES - Member Palmer informed the council that no action is required as the committee just received information regarding water conservation rates. Sue thanked Judy Neu in particular as she did a review of the water used over a year. A number of options were presented and the committee would need to review them and discuss further.

WATER METERS Member Palmer reported that Public Works is looking at purchasing radio read water meters and complete the whole system. They need to provide the pros and cons to such an upgrade and further what is the life expectancy of such a change.

ADMINISTRATOR REPORT – Administrator/Clerk Weber had nothing more to report.

OPEN FORUM

Rick Tallman – 25594 Lake Road stated that what the Mayor was talking about he did not do it. He thought you were innocent until proven guilty.

Tudie Hermanutz – 211 1st S West voiced concern that she can call a 3rd party contractor and she is not sure they will tell them. You can't make a law to take away my rights.

Carol Dietman –10559 County Road 47 asked what the ordinance is in regards to Mr. Hommerding rebuilding his home. She thought it was non-buildable. *Rena Weber reported that he could rebuild a home in the exact same footprint.*

ADJOURNMENT- Motion by Member Volkmuth, second by Member Willenbring, to adjourn the meeting at 7:00 p.m. Motion carried.

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

JEFF HAGEN
MAYOR