

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY  
NOVEMBER 16, 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 and Engineer Scott Hedlund.

Other's present were: Lt. Jon Lentz, Tudie Hermanutz, Tim Mahoney, Mike Nistler, Pat & Denny Smith, David Regnier, Mike and Joan Schlangen, Bruce Welle, Dan Welle, Stuart Thorson & Noel Engelmeyer.

**ADDITIONS TO THE AGENDA – Motion by Member Volkmuth, second by Member Willenbring, 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**

Member Becker reported that he has received calls from residents on Holly Road who are requesting something be done with their road. Rena Weber reported that this is on the agenda for the next Public Works meeting on 12/7/11 – 4 p.m.

**CONSENT AGENDA**

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

- a) **Approve minutes of 10/19/2011**
  - b) **Approve Treasurer's Report of 11/16/2011**
  - c) **Approve List of Bills and Additions of 11/16/2011**
- |  |                    |
|--|--------------------|
| <b>Accounts Payable Check # 013200 &amp; 013272-013332</b> | <b>\$58,296.97</b> |
| <b>Payroll Check #004104 to 004113</b>                     | <b>9,843.68</b>    |
| <b>EFT #000571 to 000580</b>                               | <b>8,503.85</b>    |

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

**BOARD/STAFF REPORT**

**POLICE REPORT** – Lt. Jon Lentz was present to report that in October 37 contract hours were charged. With this there were 3 adult citations.

**PLANNING COMMISSION** – Rena Weber reported on the following:  
TOM MASELTER UPDATE - Mr. Maselter received the certified letter from the building official and has complied by:

- a) Receiving a permit and demolishing the shed that was on the property line
- b) Met with an architectural engineer to determine what needs to be done to meet Building code standards for the roof. Plans and a permit still need to be addressed.

**PUBLIC WORKS** – Rick Hansen was present to request the following:  
Please approve the purchase of cutting edges for the wings on the plow trucks from H&L Mesabi in the amount of \$1,930.02  
Fund # 101-43125-210 \$1,000.00  
Fund # 101-43125-228 \$930.02

**Motion by Member Volkmuth, second by Member Howe, to approve the request as presented for purchase of cutting edges.**

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

Salt sand comparisons – Rick Hansen reported that we have a savings of \$13,288.54 for purchase of salt sand which is 1/3 of the loader cost.

#### **OLD/NEW BUSINESS**

**AARON REINHART –REQUEST TO HAVE SEWER AVAILABILITY CHARGE PLACED ON THE TAX ROLLS** – Rena Weber reported that Mr. Reinhart owns the lot between Mike Laudenbach and Lois Lenzmeier. Mr. Laudenbach and Mr. Reinhart wished to save on de-watering costs by installing their individual lines in the same trench. Mr.Reinhart unfortunately did not get on the agenda in time for the last meeting to request this.

***Motion by Member Volkmuth, second by Member Simon, to approve placing the SAC amount of 6680.86 on the tax rolls for ten years at 4.34% interest.***

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

***Motion passed on a 7 to 0 vote.***

**POLICE CONTRACT RENEWAL** – Rena Weber reported that there were no changes proposed in the renewal contract for 2012.

***Motion by Member Willenbring, second by Member Volkmuth, to approve the police contract renewal as presented for 2012.***

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

***Motion passed on a 7 to 0 vote.***

#### **COMMITTEE REPORTS**

**MAYOR** – Mayor Hagen had nothing to report.

**FINANCE COMMITTEE** - Finance Committee Chair Palmer reported the committee just reviewed a long term debt management study and recommend a policy change:

Assessments cannot roll forward to a new owner - they must be paid prior to the sale.

***Motion by Member Howe, second by Member Volkmuth, to approve the policy change in that unpaid assessments cannot roll forward to a new owner and must be paid prior to the sale.***

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

***Motion passed on a 7 to 0 vote.***

Member Willenbring questioned if this would apply if there was an LLC change – no

Would this apply if there is a refinance – no

Chair Palmer reported in regards to the Long term debt study there needs to be discussion on the long term outlet so that we have adequate funds to pay the debt. We will have some issues going forward and she would like to scheduled another finance committee meeting on 12/7/11 – 5 p.m.

**RTCB** – The RTCB is holding an open house on 11/17 at Rocori High School Commons Area at 7 p.m. It is a chance for people to hear about the progress that has been made.

Mayor Hagen question what is the financial outcome expected of us.

Member Willenbring indicated progress has been slow going, but we are seeking a grant for Phase 3 (through Rockville). Due to the passage of the law there will be no matching part on the local cities.

**COMMUNITY FOUNDATION** – The RTCB supports the Rocori Area Community Foundation as it will help the Rocori Trail.

#### **ADMINISTRATOR REPORTS**

**LION'S PARK DONATION** – Rockville Lion's Club has donated an additional \$100.53 for wiring expenses to finish out the ceiling of the Park shelter at Pleasant Lake. To do this I will need to have you accept the donation, and then amend the budget.

## Budget Amendment

Increase Revenue Fund # 101-41522-36230 \$100.53

Increase Expenditure Fund # 101-45122-590 \$100.53

***Motion by Member Volkmuth, second by Member Willenbring, to accept the donation of wiring at the Lion's Park Shelter and further approve the budget amendment.***

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

***Motion passed on a 7 to 0 vote.***

**FIRE DEPARTMENT REQUEST FOR ACTION -**

The Fire Department would like approval to purchase 12 pagers that are narrow banded to be in compliance with FCC requirements.

Due to FCC New Narrow banding requirements that all departments be in compliance with radios and pager, Stearns County has adopted a policy that all fire departments should be in compliance for the Narrow Banding by the end of the year. December 31, 2011

The County has over half of the departments done already. We will be looking for council action to purchase the pagers still needed and reprogramming required.

There is \$12,511.58 in the Designated funds – Machinery & Equipment. We propose to buy 12 pagers @ \$506. each = \$7276.83 all inclusive tax and labor from Granite Electronics.

## Budget Amendments

Decrease Designated fund 101-42200-540 (\$7,276.83)

Increase Machinery & Equip 101-42200-540 7,276.83

***Motion by Member Volkmuth, second by Member Becker, to approve the purchase of 12 pagers and narrow banding as requested.***

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

***Motion passed on a 7 to 0 vote.***

**FLOODPLAIN MANAGEMENT ORDINANCE** – Rena Weber reported that the draft Floodplain Management Ordinance has been approved by FEMA and the DNR so it is ready for public hearing.

***Motion by Member Volkmuth, second Member Howe, to schedule a public hearing for 12/21/11 at 6:45 p.m. approximately.***

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

***Motion passed on a 7 to 0 vote.***

**SENTENCE TO SERVICE** – Rena Weber reported that she objected to Stearns County charging a fee of \$100/day for sentence to service workers.

**PUBLIC HEARING – LENA LANE/AHLES ROAD IMPROVEMENT PROJECT** – Mayor Hagen announced that a public hearing would now be held to consider adoption of the final assessment for the Lena Lane/Ahles Road Improvement project.

Engineer Scott Hedlund gave a brief report of the construction project and how the assessments were determined according to the zoning. *A complete copy of the Final Assessment Roll is hereby attached and marked Exhibit A*

- 1) Lena Lane – he used an adjusted front footage as a number of lots of are 300'  
Ahles Road project – he used adjusted front footage also, but here it is capped at 200' due to the property being zoned agricultural
- 2) Assessment rate per foot – determined by schedule of costs – 22' rural \$54.10
- 3) Adjust down to 27%
- 4) 3 lots were reduced to reflect the end lots being less –  
Hunstiger, Ed – 50' instead of 100'  
Josephson, Steven – 140' instead of 190'  
Tran, Huy – 20' instead of 75'

Tran and Josephson will get the balance of 300' adjusted front footage when done  
Ahles Road – Hunstiger will get the balance of 150'

Tim Mahoney – 25297 Lake Road – On 6/8/11 he received notice of a Total Proposed Project Assessment of \$189,000. Now he has received notice of Total Final Project Assessment and it lists the number at \$274,000 and he is wondering what changed.

Scott Hedlund reported this is the total assessment and the original amount was based on the cost of a project last year and additional footage this year. This was based on the actual bids.

Also, the notice he received for this meeting said at 6:30 p.m.

Mr. Mahoney is not here to debate whether or not the city can assess, but he is here to debate the amount. He has an information brief of the MN House of Representatives that states in determining the amount of special assessments:

*The assessment amount charged to the property cannot exceed the amount by which the property benefits from the improvement, as measured by the increase in the market value of the land due to the improvement. The assessment must be uniformly applied to the same class of property. A local improvement may benefit properties that are not abutting the improvement and those benefited properties also may be assessed.*<sup>6</sup>

*In order for a special assessment to be valid:*

- *the land must receive a special benefit from the improvement being constructed,*
- *the assessment must be uniform upon the same class of property, and*
- *the assessment may not exceed the special benefit. Special benefit is measured by the increase in the market value of the land owing to the improvement.*

*A special assessment that does not meet these requirements is an unconstitutional taking.*

Mr. Mahoney had copies of his property tax statement and from 2010 to 2011 the property value decreased 3.5%. This value is taking place at the same time \$4,382.10 would have to be reflected as an increase in his market value on his property. He does not see that and has talked to the city assessor and he feels this does not reflect a \$4,382.10 increase.

He asked if Mr. Hedlund was taking into consideration the definition of the special benefit. Scott Hedlund indicated that he is following the city assessment policy. The city is trying to apply the assessments equally.

Mayor Hagen indicated that the assessed value does not necessarily represent the same amount of market value. If you want to know the true number you would have to hire an appraiser. What the benefit is what would that property be worth if you did not have the tarred road. You are only paying 27%. One could argue that you are getting 4 times the benefit with a tarred road. You would have to have your lot appraised as to what it would be worth without an asphalt road.

Mr. Mahoney reported that his main driveway does not access the portion that was tarred.

Mayor Hagen indicated that we only assess on the longest side of property.

Scott Hedlund spoke on behalf of the city indicating the need to repair the roads and this being a fair and equitable way of spreading the cost. The fact that you live on a county road does not mean that you won't be assessed.

Mike Schlangen – 9175 Ahles Road stated that most of the board lives on a county road and they need to think about this too.

Is the road going to be tarred in the spring and will you finish our driveways? The granite base of his driveway went south and he would like to see it rebuilt to the way it was.

Scott Hedlund reported that one more layer will be applied next year and driveway will be addressed then.

Mike Schlangen indicated that Hardrives parked their equipment on his property without approval. Scott Hedlund will follow up on this.

Dave Regnier – one of the owners of Hunstiger Associates stated he has been driving the road for years with his tractor. He sits up high and you can see better from there. He can't understand why the whole road had to be done when there were just three spots that needed fixing. Now the way the project was done the ends of each side will deteriorate more quickly. He pays \$3500 per year in taxes and really thought this was paying for road repairs.

Stuart Thorson – 25409 Lena Lane asked if we are done with our neighborhood. Mr. Thorson figures since 2005 he has lost over \$80,000 in equity since he purchased the property. He asked that there be no more assessments please.

***Motion by Member Volkmuth, second by Member Willenbring, to close the public hearing at 6:47p.m.***

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

Rena Weber provided the resolution for adoption of the assessment should the council so decide.

Member Howe asked if this thing goes to court how much this is going to cost.

Rena Weber stated this depends on which attorney is used and also indicated that the burden of proof is on the property owner.

Member Willenbring agreed that the burden of proof is on the property owner benefitting.

***Member Volkmuth introduced the following resolution and moved for its adoption:  
RESOLUTION NO. 2011-19***

***RESOLUTION ADOPTING ASSESSMENT FOR THE LENA LANE/AHLES ROAD  
IMPROVEMENT PROJECT.***

***WHEREAS, pursuant to notice duly given as required by law, the City Council has met, heard and passed upon all objections to the proposed assessment for 2011 Lena Lane/Ahles Road Improvement Project, and has amended such proposed assessments as it deems just;***

***NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Rockville, Stearns County, Minnesota, as follows:***

- 1. Such proposed assessment, a copy of which is attached hereto and made part hereof is hereby accepted and shall constitute the special assessment against benefited by the proposed improvements.***
- 2. The remaining assessments shall be payable in equal annual installments including principal and interest extending over a period of 10 years, with interest rate of four.seven five percent (4.75%) per annum, in the amount annually required to pay the principal over such a period at such a rate, the first of said installments to be payable with general taxes for the year 2012, collectible with such taxes during the year 2012. Interest shall accrue from and after December 16, 2011.***
- 3. The owner of the property so assessed may at any time prior to the certification of the assessment to the County Auditor, pay to the Administrator/Clerk, and thereafter at any time prior to November 15 of any year pay to the County Auditor or Administrator/Clerk, the whole of the principal amount of the assessment on such property provided that no such prepayment shall be accepted without payment of all installments due to and including December 31 of the year of the prepayment, and the original principal amount reduced only by the amounts of principal included in such installments computed on an annual amortization basis.***
- 4. The Administrator/Clerk shall forthwith transmit a certified duplicate copy of this assessment to the County Auditor to be extended on the tax list of the County.***

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

**AYES: Becker, Hagen, Schmitt, Simon, Volkmuth and Willenbring**

**NAYS: Howe**

**Motion passed on a 6 to 1 vote.**

**OPEN FORUM**

Member Willenbring stepped down from the dais and reported that as citizen Willenbring he feels the assessment policy for the City of Rockville is not exactly the way it should be. He was involved when the policy was reviewed by a task force who researched it. It was the best that we had. If there is a change to the assessment policy it would have to go back to ground crew. In his estimation we have a flaw in the policy.

**ADJOURNMENT – Motion by Member Volkmuth, second by Member Willenbring, to adjourn the meeting at 6:52 p.m. Motion carried unanimously.**

---

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

---

**JEFF HAGEN  
MAYOR**