MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, APRIL 17, 2013 – 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 Don Simon, Randy Volkmuth & Duane Willenbring. Absent: Member Palmer.

Staff members present were: Administrator/Clerk Rena Weber, Public Works Director Rick Hansen, Attorney Adam Ripple & Engineer Dave Blommel.

Others present were: Paul Wirth, Sgt. Jon Lentz, Tudie Hermanutz, Rick Tallman, Bill Becker, Lila & Dave Heim, Brian Klocker, Larry Byzewski, Karen & Bob Weidner, George Bechtold, Pat Smith, Bruce & Joan Abbe, Rick & Debbie Orth, Darwin Voigt & Jim Holmquist.

ADDITIONS – ***Motion by Member Volkmuth, second by Member Willenbring, to approve the additions to the agenda for discussion purposes only.***
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

OPEN FORUM

No person appeared.

CONSENT AGENDA

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

a) ***Approve minutes of 3/20/13 Regular Council meetings***
b) ***Approve Treasurer's Report of 4/17/13***
c) ***Approve List of Bills and Additions***

Accounts Payable CK #014353 to 014406	***$ 42,166.22***
Payroll CK #004451 to 004462	***9,381.83***
EFT #000714 to 000722	***6,264.11***

d) ***Liability Coverage Waiver form - $500,000***
e) ***Simply Outdoor Experiences raffle at 400 Club 4/26/13***

AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

BOARD/STAFF REPORTS

ATTORNEY ADAM RIPPLE – Adam Ripple was present to discuss his letter of opinion regarding water rates being fair and equitable. *(A copy is hereby attached and marked Exhibit A)*

Mayor Hagen reported that there is petition going around town and we have a response to it.

Rena Weber explained that the city was notified that a petition is going around regarding the water rates. 20% of the registered voters are needed to sign the petition. The petition is sent to Stearns County for review of the signatures.

Adam explained that there may not be a state audit. The State will meet with the petitioners or a committee first to determine if there is a need for an audit. These can be full blown or they can be nothing. The city is responsible for the cost of such an audit.

Mayor Hagen asked when does the meter start – at the time of the meeting with the petitioners. Adam was not sure, but it could be at that time.

Member Willenbring asked if the auditor determines the scope of work. Adam indicated the state auditor will request some feedback from the petitioners and the city and then they will determine the scope of work.

Member Willenbring asked does the state auditor just come in to the city and ask questions. Adam indicated there is not a specific process on how they do things, but the do things strictly by the letter of the law. They have the power to determine how much and what they are going to look at.

Member Willenbring then asked what the cost is. Adam indicated that it is similar to what they have charged in the past. It depends on the circumstances. It usually charged on an hourly rate.

Rena Weber reported that the City of Cold Spring spent $10,000 in 1982 for a full city audit. Freeport just went through an audit which cost them $20,000. The city auditor said it is usually twice the cost of what their audit is. She also talked to Teri from MNRWA who indicated that they sometimes do not charge anything.

Member Volkmuth asked if the city should send a letter to the residents. Adam indicated that is not a legal question – rather a political one. Sometimes it can legitimize your efforts and sometimes it can cause more concern. If there is misinformation out there you might want to stop that.

Member Simon stated that not all citizens are on city water – If you pay for this out of the general fund you will have some citizens upset.

Adam indicated there has to be specific information on the petition alerting people to what they are asking and he did not want to go into that.

Mayor Hagen indicated that we have a full time person doing this, a system has been established and we have been following it for years. We hired a consultant to review the rates who is very reputable and our rates are entirely supportable. When he sees a petition with issues and with the way it is being presented deceptively he feels it would be prudent for us to avoid an expense that may reach $10,000. He further feels it is worth the time and effort to create and mail a letter to the citizens. He asked for a vote to send the letter out.

Member Volkmuth moved to approve the letter. Other members needed time to read the letter first so Member Volkmuth withdrew his vote.

Open meeting law – Rena Weber reported that it is her understanding that she can email the entire council, but the council should not reply to all – only her. We also need to report that we have the e-mail book available. Information is disposed of in accordance with the retention policy.

Adam agreed with Rena and the fact council should not reply-all in order to avoid any appearance of serial meetings. Information in the e-mail book is public.

Member Willenbring asked if Rena sends out information and if one member replies all that would be a violation of the open meeting law. Adam – not necessarily. The content of what is in the e-mail could be considered a violation if that person is expressing their thoughts on a certain vote.

Member Willenbring asked what are the consequences. Adam indicated there are criminal consequences; it could be a petty misdemeanor. The third occurrence is removal from office although fines are set at $300 per violation.

Member Willenbring stated that statutes says any person intentionally violating the open meeting law while serving as a member of a public body shall forfeit the right to serve on the governing body equal to the term length of office held. Adam – that is after the third offense.

Administrator/Clerk Weber's questions for the attorney:

1) The city has gone through two elections using the combined polling place at city hall. What is the procedure to combine precincts should the council agree? Resolution. Member Volkmuth asked if there were any ramifications. There are two school districts. Rena indicated that we deal with that now.

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

Resolution # 2013-10

Resolution Combining Polling Precincts

WHEREAS, the City of Rockville has determined combined polling precincts will better serve the citizens of Rockville, and;

WHEREAS, the voting members voted in one polling place for the 2012 elections, and;

WHEREAS, the existing polling location of Rockville, Minnesota has ample room to accommodate the polling place location for the precincts of 1 and 2 and meets the accessibility requirements.

NOW THEREFORE, Be it resolved, that commencing with elections after this date, the City of Rockville will be combining the Precincts of P1 and P2 into one precinct. Elections will be conducted at the Rockville City Hall, 229 Broadway Street East, Rockville, Minnesota, using the Optech III-P Eagle optical scan and Automark voting equipment.

Attached to this resolution, for illustrative purposes, is a map of the entire city and the location of the polling place.

The motion for the foregoing resolution was duly seconded by Member Willenbring with the following vote being taken:
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

2) As you know we pass ordinances by way of public hearing – which is what we just went through with the water rate increase. I understand that some cities like Richmond approve their water fees as part of approving the fee schedule at the beginning of the year without public hearing. I did get a copy of their enabling resolution. The question would be can we switch the way we are doing it without public outcry?
Adam indicated that he does not necessarily agree with handling the fees through an annual approval.

3) Recently I learned that the State of MN combined non-conforming lots together (Shoreland) to make one big lot. (See attached e-mail from Dan Kron) This was not highly published and I actually have a situation on Grand Lake where this occurred. Susan Dean would like to split her lot now and pending my review of the impervious surface coverage and what is left to split – can we even do this?
Adam indicated that no we could not split this up unless they can be a conforming lot. The city can be more restrictive and if it meets the requirements of the state you can allow it.

POLICE DEPARMENT – Sgt. Jon Lentz was present to report that there were 38 contract hours in February and went through the citations.

PUBLIC HEARINGS

BURG STREET – 2013 STREET IMPROVEMENTS - Mayor Hagen announced that a public hearing would now be called to order at 6:33 p.m. to consider improvements to Burg Street and the adjoining cul-de-sacs.

Engineer Dave Blommel reported on the project FAQ sheet that was provided for the hearing indicating what improvements are being proposed, how the assessment was calculated, capping the assessment at 200' and how that does not apply here, project schedule and does the assessment change if the bids come in higher. *(A copy is hereby attached and marked Exhibit B)*

- Question on Alvin Court replacement – Dave reported that the special spots will be taken care of.
- Bob Weidner – 9111 Marlene Court asked what are the weight restrictions – 7 ton
- Darwin Voigt – Merrifield, MN asked if this will be good enough for garbage trucks and school buses – yes
- Jim Holmquist 25909 Burg Street– Will this slow traffic down? No but could put up signs and have the cops up there.
- Brian Klocker - 25901 Burg Street asked did we opt out of the 200' option – Dave explained the 200 is capped for agriculture land and that this was how we charged Lena Lane. We need to be consistent, but it is the council discretion and they need to be fair and equitable.

Motion by Member Volkmuth, second by Member Simon, to close the hearing at 6:46 p.m. Motion carried unanimously.

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

RESOLUTION NO. 2013-11
Resolution Ordering Improvement and Preparation of Plans
Burg Street, Alvin & Marlene Court Improvements
Rockville, Minnesota

WHEREAS, a resolution of the city council adopted the 17th day of April, 2013, fixed a date for a council hearing on the proposed road improvement:

Burg Street – in its entirety
Alvin & Marlene Court – in their entirety

WHEREAS, the City Engineer has provided a report 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 includes the estimated cost of the improvement as recommended.
WHEREAS, ten days' mailed notice and two weeks' published notice of the hearing was given, and the hearing was held thereon on the 17th day of April, 2013, at which all persons desiring to be heard were given an opportunity to be heard thereon,
AND WHEREAS, a reasonable estimate of the total amount to be assessed, and a description of the methodology used to calculate individual assessments for affected parcels, was available at the hearing.

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

1. ***Such improvement is necessary, cost-effective, and feasible as detailed in the feasibility report.***
2. ***Short Elliott Hendrickson Inc. (SEH) is hereby designated as the engineer for this improvement. The engineer shall prepare plans and specifications for the making of such improvement.***
3. ***The City Council declares its official intent to reimburse itself for the costs of the improvement from the proceeds of the tax exempt bond.***

The motion for the foregoing resolution was duly seconded by Member Willenbring with the following vote being taken:
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

HOLLY ROAD AND 80TH AVENUE – Mayor Hagen announced that an information meeting would now be called to order to discuss improvements to Holly Road and 80th Avenue.
Residents of the Holly Road area petitioned for the improvement 100% in 2012, but the cost was for a lesser designed project. The City Council at that time chose to not put money into a sub-standard road if it was not designed to last 20 + years. At this time the engineer provided an updated cost estimate for both Holly Road and 80th Avenue – both being assessed at 100%

Residents had lots of questions regarding the information that was sent out last year.

Member Volkmuth explained how it changed from 27 to 100% in that the soil boring tests came back and it warranted looking at further so the council determined not going ahead last year.

After much discussion Mayor Hagen indicated that the consensus is that residents want the assessment to be split 27% / 73% on Holly Road.

Member Volkmuth stated that if we do Holly Road it has to last 20 year before we look at it again. If people agreed to this in writing this could be reconsidered.

Engineer Blommel will review the numbers from the previous estimate to determine what was different this year from last year. We may just do Holly Avenue now and 80th later.

PRAIRIE INDUSTRIAL PARK RE-ASSESSMENT – Mayor Hagen announced that a public hearing would now be held to consider the re-assessment of special assessment to a forfeiture parcel 76.42146.0807 that was sold at the public auction in 2012.

Darwin Voigt was present to report that he purchased the lot for $34,200 not the $68,400 it is still valued at on the tax rolls. He also reported that a $16,000 assessment was not told to him when he purchased the lot.

Member Volkmuth indicated that he has value there.

Mayor Hagen stated that we need to check this out. These are hard costs we are re-assessing and he wants to check with Stearns County as to what information was given at the time of sale.

Darwin questioned the interest rate, beginning payment status and could he get a reduction if he paid it all.

Rena Weber reported that the notice she sent out looked for the first payment due by November, 2013. According to what the city told Steams County it would be charged at 4% interest for 5 years.

Motion by Member Volkmuth, second by Member Willenbring, to close the public hearing at 7:32 p.m. Motion carried unanimously.

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

RESOLUTION NO. 2013-12

RESOLUTION ADOPTING A RE- ASSESSMENT ON CERTAIN PARCEL DUE TO FORFEITURE SALE

WHEREAS, pursuant to notice duly given as required by law, the City Council has met, heard and passed upon all objections to the proposed re- assessment for improvement to Parcel #76.42146.0807;

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

1. ***Such proposed re-assessment, a copy of which is attached hereto and made part hereof is hereby accepted and shall constitute the re- assessment against the land named herein, and each tract of land there is hereby found to be benefited by the proposed improvements.***
2. ***Such re- assessment is hereby attached and marked Exhibit C.***
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 shall be 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.***
5. ***If the purchaser was not informed of the re-assessment at the time of sale and this can be verified, the council may entertain a change at the May 1, 2013 meeting.***

The motion for the foregoing resolution was duly seconded by Member Volkmuth with the following vote being taken:
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

RENTAL ORDINANCE – Mayor Hagen announced that a public hearing would now be held to consider adoption of the amended Rental Ordinance.

Discussion was held regarding the term of license being 5 years, not 4 years. It also needed clarification on inspection frequency.

Motion by Member Volkmuth, second by Member Willenbring, to continue the public hearing until 5/15/13.
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

FIRE DEPARTMENT RFA - Please approve the award of the sale of the 2003 Yamaha Rhino 660. 11 bids were received:

1.	Tom Szydlowski	$2860.
2.	Thomas Laurion	4128
3.	Tom Leaden	3402
4.	Ross Renner	4209
5.	Justin Finken	2105
6.	John Vossen	3501
7.	Kurt Baumgartner	5200 ***
8.	Gary Utsch	2000
9.	Travis Eveslage	3271
10.	Gus Hoffman	4000
11.	Jeff Lahr	2808

Funding:
R 101-42200-39101 $5200
Budget Amendment: Yes

Motion by Mayor Hagen, second by Member Willenbring, to approve the award of the sale of 2003 Yamaha Rhino to Kurt Baumgartner and also the budget amendment as presented.
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

OLD BUSINESS

SHADE TREE ORDINANCE UPDATE – Paul Wirth was present to report on the answers received from Ken Holman MN DNR for the shade tree ordinance. Refer to e-mail in packet.

Paul reported that Jeff Evander could be hired as on-call tree inspector if and when needed.

Member Willenbring reported that he and Paul have made amends since the last meeting.

COMMITTEE REPORTS

MAYOR – Nothing

RTCB – Nothing

PUBLIC WORKS –Chair Simon reported on the following:

HAPPY HEARTS DAY CARE – Two different parents who use the day care had asked that temporary parking signs be posted in front of the Happy Hearts Day Care Center. The problem is at night where people stopping at Stoney's park in front of the day care and parents can't park close enough to pickup their children. There is a driveway approach approximately 25 feet from the intersection.

Motion by Member Volkmuth, second by Mayor Hagen, to request signs stating:

- ***Limited Parking occur 4 pm to 6 pm- Monday through Friday starting at the end of Maselter Cabinet property to the east ending at the intersection.***
- ***Load and unload only – no parking on the sidewalk itself.***
- ***Staff to coordinate with Stearns County on sign placement.***

AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

HAND HELD METER – Rena & Rick reported that the hand held water meter reader is in need of replacement. The unit was purchased in 2005 and is no longer under warranty and replacement parts are not available. A cost estimate was submitted in the amount of $7000.
This will be re-checked prior to ordering as the city does pay an annual maintenance fee on the software in the amount $1021.98. *(A revised estimate was obtained in the amount of $5,999 since the city does have the maintenance agreement.)*

Motion by Member Volkmuth, second by Member Willenbring, to approve the purchase of the hand held water meter as presented.
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

COUNTY ROAD 138 TURN BACK– Member Simon reported that a meeting has been scheduled for May 1, 2013 at 8:15 a.m.

SALT SHED – Member Simon reported that he has received an estimate for a salt sand storage shed. It was determined that this will have to be run through Finance Committee as it has not been included in any budget for this year.

RESPONSE TO PETITION – Mayor Hagen reported that there are too many misconceptions regarding the water rate. He feels it is worth the money to copy and mail the attached letter Marked Exhibit D out to the residents:

Motion by Mayor Hagen, second by Member Volkmuth, to approve the mailing of the Mayor's response to the petition to all citizens.
AYES: Hagen, Simon & Volkmuth
NAYS: Willenbring
Motion passed on a 3 to 1 vote.

ADMINISTRATOR'SREPORT

RATE PER HOUR – Rena Weber reported that the fee schedule is adopted each January and part of that is the charge for Administration fees. It has been a concern that the rate may not be enough especially when it comes to charge for service when I am doing the work. We currently charge $25.00/hour.

Motion by Mayor Hagen, second by Member Volkmuth, to approve the fee of $50.00 for administrative work.
AYES: Hagen, Simon & Volkmuth
NAYS: Willenbring
Motion passed on a 3 to 1 vote.

ADDITION TO THE AGENDA

STREET SWEEPING – Rick Hansen requested approval for the following:
Please approve PLS for the 2013 Street Sweeping. The quotes received were:

Parking Lot Sweeping	$65.00/hour
ASTECH	95.00/hour

Motion by Member Volkmuth, second by Member Simon, to approve the low bid of Parking Lot Sweeping as requested.
AYES: Hagen, Simon, Volkmuth & Willenbring.
Motion passed on a 4 to 0 vote.

OPEN FORUM

Rick Tallman 25594 Lake Road – prepared a statement that he wants included in the city minutes. *(A copy is attached and marked Exhibit D).*

Mayor Hagen reminded Mr. Tallman of the four minute limit and also the statement he wants included is his opinion.

Member Willenbring had other questions he wanted to ask the attorney so he asked the Administrator.

- Year end audit available – Rena said it will be next month
- Item B request for data practices – can it be inspected – Yes for free
- Can copies be made of the data – yes there is a cost of $ .25/page
- If someone (Mr. Tallman) makes a request – are they aware there will be a bill? Yes they are notified that they will be charged for the information.

Mayor Hagen clarified what Tudie Hermanutz asked regarding the charging for time spent by staff. The city is going to accommodate as much as possible, but Member Willenbring was asking are we going to charge somebody after the fact without telling them ahead of time. Rena answered that already in that we are going to charge $ .25 per page for copies and we will tell you ahead of time that we are going to charge you. We are going to charge for excessive work.

Member Simon reported that there was one more snow storm and our machines took a beating so it may take a little longer for the next snow storm.

ADJOURNMENT – *Motion by Member Volkmuth, second by Member Willenbring, to adjourn at 8:07 p.m. Motion carried unanimously.*

VERENA M. WEBER-CMC	**JEFF HAGEN**
ADMINISTRATOR/CLERK	**MAYOR**