

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY,
FEBRUARY 20, 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 Susan Palmer, Don Simon, Randy Volkmuth & Duane Willenbring. Absent: None

Staff members present were: Administrator/Clerk Rena Weber.

Others present were: Teri Osterman-MRWA, Tudie Hermanutz, Andrew & Eunice Molitor, Todd Beumer, Marty Bode, Mike Nistler, Rick Tallman, Jerry Tippelt, Lorraine Jungels, Scott Palmer & Bill Molitor.

ADDITIONS – Motion by Member Volkmuth, second by Simon, to approve the additions to the agenda for discussion purposes only.

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

Motion passed on a 5 to 0 vote.

OPEN FORUM

Rick Tallman – 25594 Lake Road wished to speak about discussion on Sewer & Water rates that was just discussed at the Finance Committee meeting. In the diagrams presented, the existing rates came up \$5,000 short for just the water. He suggested the council go Example 3 with just volume where we are short about \$43.00. Any business has fixed costs. When you go into a gas station do they charge you a base fee? No. You operate on what you are selling.

The FC discussed Fair and equitable but left out a 2nd part. Charges for services must be as nearly as possible proportionate to the cost of furnishing services even if the local charter says otherwise. He wonders now if you proceed with this way how it will be done. First off your ordinance states that separate meters are required, it is not there. Normally when changes are made existing structures are grandfathered in. New structures would be required to have separate meters or when you are doing a remodel you would install them.

If we end up this way he has two other options:

One – Use the State Auditor and he has specific questions

Two – Consider that sewer debt would not change – if you look at that charged on so much per foot of frontage basis and by special assessment you used 150' of front footage the fee would be the same. Instead we are being charged \$336 every billing period Vs \$28.00 on a single family home.

CONSENT AGENDA

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

- a) **Approve minutes of 1/16/13 both Special & Regular Council meetings**
- b) **Approve Treasurer's Report of 1/16/13**
- c) **Approve List of Bills and Additions**

| | |
|--|---------------------|
| Accounts Payable CK #014252 to 014304 | \$ 28,802.18 |
| Payroll CK #004414 to 004431 | 13,927.25 |
| EFT #000698 to 000707 | 9,160.30 |

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

Motion passed on a 5 to 0 vote.

Member Willenbring questioned the membership of the public works committee and feels that Mayor Hagen should be on it. Rena Weber explained that she listened to the minutes and it was brought forth by Member Volkmuth that Member Willenbring serve on this committee and there were no objections so the minutes are correct as presented. Member Willenbring would like to get off of this committee. Mayor Hagen agreed to serve on the committee.

Motion by Member Willenbring, second by Member Volkmuth, to yield Public Works Committee membership to Mayor Hagen.

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

BOARD/STAFF REPORTS

FINANCE COMMITTEE REPORT – Member Palmer reported that the city hired MRWA to look at the water rates. She, staff and Terri Osterman reviewed the rates. We were charged with two things:

- Review the basis for how we are charging water rates while being fair and equitable
- Are we charging enough to operate our system

We first looked at the number of connections in the city in which we charge per ordinance based on the number of units. One unit =one base and that applies the same to residential, apartments and business so we have identified 382 units in the city.

We applied the annual budget and looked at fixed costs Vs variable costs to determine the base rate and volume rate should be.

Questions were raised that we should do our units a different way, but Terri will say cities do different things. Some use a volume fee only or a lot do it the same as Rockville – both a base fee and volume fee. We looked at it and feel there are a number of charges that should go into the fixed base rate. The base rate is not simply the cost to read the meter. It covers a multiple of other costs including the debt service, utilities, staff time, etc.

The Finance Committee thinks it is fair and reasonable, not as difficult for staff to do and if we went to a different way we would have to hire another person. The Finance Committee has two recommendations:

- Continue charging the same as we are now on per unit basis as the ordinance provides
- Increase base fee from \$9.20 to \$9.54 per month and volume fee from \$3.22 to 3.55 per gallon.

Member Volkmuth questioned Terri Osterman on what we have put forth – do we have to worry about what Rick Tallman is citing or are we being fair and equitable.

Terri Osterman stated that she believes we are being fair and equitable, but everything you do can be challenged in a court of law. It used to be that grandfathered in was acceptable. Being grandfathered is not really allowed and you are given a certain amount of time to be in compliance. That has changed. You would have to research how that came to be – could be a hardship to become in compliance.

Terri Osterman stated “Can we tweak it?” Yes, but the bottom line is if you have an \$110,000 budget with 382 units paying for it – review will reflect how we came about to being fair and equitable.

Member Volkmuth asked that the minutes recognize that this was discussed.

Mayor Hagen questioned having the attorney look at ordinance to see that the ordinance complies with the policy if not amend it. As far as the requirement that each unit have a meter the city could look at waiving that requirement as long as there is an understanding that a base fee is charged. He would like to make sure that our ordinance addresses what Rick Tallman has brought up and the ordinance is consistent with the policy.

Rena Weber cited the ordinance:

52.25 SUPPLY FROM ONE SERVICE. - No more than one housing unit or building shall be supplied from one service connection except by permission of City Council. Each unit served shall have a separate water meter.

Mayor Hagen add a sentence “Recognizing that some units have multiple users the council can waive the requirement as long as they agree to pay the base fees”.

Motion by Member Volkmuth, seconded by Member Palmer, to schedule the public hearing for March 20, 2013 – 6:50 p.m. to specifically consider approval of revised water base fee and volume rates: \$9.54 base fee/month and \$3.55 per thousand gallons.

Member Willenbring voiced concern that he can't make a positive informed decision on this since he just received this tonight. This is not enough time to review. This has been going

on since 2005 when the ordinance was modified. Can't this wait a month? He is opposed now and then as the council has not had the proper dialog. We had a resident come forth with concern on the legality of this. When looking at the fixed costs Vs variable costs and by merely adding more to the debt is concerning. He would like to wait until April. None of our neighboring cities use this type of rate system.

Member Palmer wished to clarify that it depends when you are looking at other cities – what is the level of debt do they have. You could have used 100% of the debt as fixed and this would have changed the fixed cost a lot. We are not covering depreciation.

Member Volkmuth wished to amend the Public Hearing to April.

Member Palmer asked what couldn't be asked in 30 days?

Mayor Hagen called the vote – if it fails, then we would consider a different vote.

AYES: Hagen, Palmer & Simon

NAYS: Volkmuth

ABSTAINING: Willenbring

Motion passed on a 3 – 1 vote.

Member Volkmuth asked to have legal look at the ordinance to see that it does what we are doing?

POLICE – Contract hours were 38 for the month of January.

PLANNING COMMISSION – Rena Weber reported for the Planning Commission:

MIKE NISTLER – The Planning Commission held a public hearing to consider the request of Michael A. Nistler for a Conditional Use Permit for a home extended business in the A-40 District. The address of the property is: 25417 County Road 2, St. Cloud, MN

SECTION 16 Subdivision 4: Ag-40 Conditional Uses reads:

16. Home Extended Business

Request is to convert present child daycare into an idea called Eldergarten. This is a place for elderly people to spend time, play games, etc.

STAFF REPORT

RE: CONDITIONAL USE PERMIT REQUEST

76.41609.300 Owner: Michael A. Nistler

Property Address: 25417 County Road 2

Legal description:

The Northeast Quarter of the Southwest Quarter (NE ¼ SW ¼) northerly of Road, Section Six (6), Township One hundred Twenty-three (123) North, Range Twenty-nine (20) West. Stearns County, Minnesota.

REQUEST

Approval to establish a Home Extended Business in the A-40 District by amending a conditional use permit.

RELEVANT INFORMATION

1. Property is zoned A-40.
2. Property is 6.45 acres approximately.
3. Michael Nistler and his wife would like to move the daycare center back to its original spot and offer Eldergarten in its place.
4. Mike and Sue Nistler stated they were not expanding, but instead using the existing daycare facility for the new for-profit business idea called Eldergarten. This is a place for elderly people to spend time, play games, etc. They had Gary Utsch, Inspector, come out and he stated they need to limit it to 15 people. They will not be serving meals, but meals could be catered in. Jim Thelen is going to volunteer as a teacher. They are going to talk to churches and see if they know of others who would like to come to Eldergarten. It would provide them with additional socialization opportunities. It would be operated as a for-profit. The existing daycare is moving to the barn, where it used to be located. They are not expanding, just using the current day care facility to house the Eldergarten members. They stated this is not going to be an adult daycare. They will

have plenty of parking with handicap parking. Not interested in adult daycare, too much regulation.

4. 15 parking spaces are required. The parking lot, access road will be constructed of Class V gravel. Ordinance calls for the road to be a dust free surface maintained or paved.
5. There are no neighbors within 150 of the structure – headlights shining on structures should not be an issue.
6. No residential building is within 200 feet of the access road unless the day care center is considered residential. The commercial use was allowed by CUP before consolidation.
7. The facility has to comply with existing building, zoning and health code regulations. Stearns County Environmental Services issues the septic system permit and Mr. Nistler has contacted them regarding such. Mr. Nistler to provide the information received from Stearns County. **Provide proof that it is still in compliance.**
8. Setbacks from neighboring property, residential structures and road right-of-way are in compliance.

RECOMMENDATION

1. Discuss hours of operation. 8 to 5
2. Discuss number of parking spaces. 14 was approved by the Planning Commission
3. Discuss if the moving of the daycare to the barn is in compliance with building code – provide proof.
4. Curriculum was provided

Rena Weber reported the CUP for the home extended business is the only way this can occur and it is building specific since a different building is being used for the event center. The Planning Commission recommends the council to approve the conditional use permit with the approval from Stearns County Environmental Services for the septic system that services Eldergarten and the daycare.

Mike Nistler was present at the meeting and asked why the septic would need to be certified. The septic system was put in 1997 and with the additional people coming in it is recommended that it be inspected. The cost is \$600 to inspect.

Member Willenbring stated that this is a county review, not the city. A classification change or additional people would trigger the review.

Mayor Hagen asked if the event center was still in place. Yes, but with porta potties.

Mike Nistler stated the house has its own system.

Mayor Hagen questioned if county can overrule our ordinance when we change the use of a structure. There is too much government.

Member Palmer asked why this is not being licensed. Mike Nistler explained that the rules/restrictions about the same a getting into a nuclear power plant. We are not in the medical business. If they don't like the curriculum they don't come back.

Member Simon asked if there were any complaints from neighbors about dust. No.

Member Palmer asked if the Planning Commission adopted any time limit. No.

Mayor Hagen stated there are two issues – the CUP and the septic system.

If the county does not need it Mike Nistler can come back and we will not require it.

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

RESOLUTION NO. 2013-06

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT.

WHEREAS, The City Council of the City of Rockville, Stearns County, Minnesota has received a request for a conditional use permit from Mike Nistler to move an existing day care center to the original building that was used, and further to create an Eldercare center in the present daycare building in the A-40 District, and;

WHEREAS, this request would not affect the wetland, 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 allow the use of the present daycare building for an Eldercare center in the A-40 District with the condition that the septic system be checked for compliance.

2. Said approval is not a burden on public facilities, is compatible with existing and planned adjacent uses, has no adverse affect on adjacent properties, the use is related to the needs of the city, is consistent with the Comprehensive Plan, is not a traffic hazard, there is adequate parking and loading, and;

3. The granting of the conditional use permit will not be detrimental to the public health, safety and general welfare of the City.

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

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

Motion passed on a 5 to 0 vote.

RURAL RESIDENTIAL RE-ZONG - Bill Molitor present to discuss his parents proposal to subdivide 20 acres into to 10 acres.

Rena Weber reported that this would be the first time the council is being asked to use the Rural Residential zoning tool and there are concerns:

- Needs variances from feedlot setback
- Taking tilled land out of production
- Recognizing the wetlands that runs through the property

Bill Molitor explained that anytime a farmer goes over 499 animal units it needs public hearing.

Member Willenbring indicated that feedlot lot rules are changing and we would need a deed restriction put on the new lots. The County may be changing the 700' to 500'. No action was taken.

OLD BUSINESS

RENTAL ORDINANCE – TODD BEUMER REQUEUST – Chair Palmer reported the Finance Committee discussed Todd Beumer's request for extension of payment for rental the 2011 inspection. The Finance Committee recommends the \$3600 be paid back at 10% per month for the remainder of the year.

The Finance Committee also recommends looking at moratorium on inspections while we re-visit what the ordinance should be. We need to deal with a few people on who has paid.

Motion by Member Palmer, second by Member Volkmuth, to approve payment of the 2011 rental inspection fee (\$3600 @ 10% per month until paid in full).

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

Motion passed on a 5 to 0 vote.

Motion by Member Palmer, second by Member Volkmuth, to place a moratorium on rental inspections for 60 days so that the council can re-visit the proposed ordinance.

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

Motion passed on a 5 to 0 vote.

NEW BUSINESS

BURG STREET FEASIBILITY STUDY – Engineer Dave Blommel was not present for the meeting but had submitted a letter to the council explaining that the soil boring report did not provide and surprises. The recommended street section in the report is the same section we have used on past road projects in the City. The next step is to order the feasibility study which would be done on an hourly basis not to exceed \$700.

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

RESOLUTION NO. 2013-07

RESOLUTION ORDERING PREPARATION OF REPORT ON IMPROVEMENT

WHEREAS, It is proposed to improve Burg Street and abutting cul-de-sacs and to assess the benefited property for a portion of the cost of the improvement, pursuant to Minnesota Statutes, Chapter 429,

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

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

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

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

Motion passed on a 5 to 0 vote.

RESOLUTION 2013-04 ADOPTING MNDOT MASTER PARTNERSHIP CONTRACT – Rena Weber reported that in order for the City to purchase the oil for the air patching equipment we need to have this contract in place with MNDOT.

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

**RESOLUTION NO. 2013-04
APPROVING MASTER PARTNERSHIP CONTRACT
WITH MNDOT**

Whereas, The Minnesota Department of Transportation wishes to cooperate closely with local units of government to coordinate the delivery of transportation services and maximize the efficient delivery of such services at all levels of government; and

Whereas, MNDOT and local governments are authorized by Minnesota Statutes sections 471.59, 174.02, and 161.20, to undertake collaborative efforts for the design, construction, maintenance and operation of state and local roads; and

Whereas: the parties wish to be able to respond quickly and efficiently to such opportunities for collaboration, and have determined that having the ability to write “work orders” against a master contract would provide the greatest speed and flexibility in responding to identified needs.

Therefore, be it resolved:

1. That the City of Rockville enter into a Master Partnership Contract with the Minnesota Department of Transportation, a copy of which was before the Council.
2. That the proper City of Rockville officers are authorized to execute such contract, and any amendments thereto.
3. That the City of Rockville Public Works Director is authorized to negotiate work order contracts pursuant to the Master Contract, which work order contracts may provide for payment to or from MNDOT, and that the City of Rockville Public Work Director may execute such work order contracts on behalf of the City of Rockville without further approval by this Council.

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

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

Motion passed on a 5 to 0 vote

RESOLUTION NO. 2013-05 ADOPTING STEARNS COUNTY ALL-HAZARD MITIGATION PLAN – Rena Weber explained adoption of this resolution is necessary for the City to be able to get any assistance with a major disaster occurs. As part of the Wellhead Protection plan goes we needed the county officials to be aware of the concern of trucks carrying hazardous chemicals on Highway 23 and possible spills in the DWSMA.

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

**RESOLUTION OF THE CITY OF ROCKVILLE
2013-05
ADOPTION OF THE
STEARNS COUNTY ALL-HAZARD MITIGATION PLAN**

WHEREAS, the City of Rockville has participated in the hazard mitigation planning process as established under the Disaster Mitigation Act of 2000, and

WHEREAS, the Act establishes a framework for the development of a multi-jurisdictional County Hazard Mitigation Plan; and

WHEREAS, the Act as part of the planning process requires public involvement and local coordination among neighboring local units of government and businesses; and

WHEREAS, the Stearns County Plan includes a risk assessment including past hazards, hazards that threaten the County, an estimate of structures at risk, a general description of land uses and development trends; and

WHEREAS, the Stearns County Plan includes a mitigation strategy including goals and objectives and an action plan identifying specific mitigation projects and costs; and

WHEREAS, the Stearns County Plan includes a maintenance or implementation process including plan updates, integration of the plan into other planning documents and how Stearns County will maintain public participation and coordination; and

WHEREAS, the Plan has been shared with the Minnesota Division of Homeland Security and Emergency Management and the Federal Emergency Management Agency for review and comment; and

WHEREAS, the Stearns County All-Hazard Mitigation Plan will make the county and participating jurisdictions eligible to receive FEMA hazard mitigation assistance grants; and

WHEREAS, this is a multi-jurisdictional Plan and cities that participated in the planning process may choose to also adopt the County Plan.

NOW THEREFORE BE IT RESOLVED that the City of Rockville supports the hazard mitigation planning effort and wishes to adopt the Stearns County All-Hazard Mitigation Plan.

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

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

Motion passed on a 5 to 0 vote.

COMMITTEE REPORTS

MAYOR'S REPORT – Mayor Hagen had nothing to report.

RTCB – Member Willenbring reported that there was nothing to report.

PUBLIC WORKS – Chair Simon reported the committee looked at limiting the number of garbage haulers in the city. Is there a cost savings to the citizens? Maybe, but they are just gathering information for now.

Burg Street – They are looking to improve the road this summer.

E-Mailed Representative Jeff Howe – regarding funding for streets

Jerry Tippelt asked if the city can allow garbage trucks to even go on city streets legally. Aren't they overweight?

ADMINISTRATOR'S CORRESPONDENCE

SUPPLEMENTAL ASSESSMENT – Rena Weber requested approval to schedule a public hearing and correct an assessment that was placed on parcel No. ending in 0443. It should have been assessed to .0445. In order to do this we would need to go through the PH procedure notifying Arcon and now the State of MN of the Hearing and change the assessment. 0443 is a corner lot and 0445 is the Outlot.

Motion by Member Volkmuth, second by Member Willenbring, to schedule a public hearing to consider adoption of a supplemental assessment for March 20, 2012- 6:30 p.m.
AYES: Hagen, Palmer, Simon, Volkmuth & Willenbring.
Motion passed on a 5 to 0 vote.

SHADE TREE ORDINANCE – Rena Weber reported that the City received a tree grant last summer and planted 33 trees in two parks. As part of the grant acceptance we need to have the shade tree Ordinance in place along with a maintenance plan. This really opens the door for if/when we should be invaded – the state will take over the clean up.

Motion by Member Volkmuth, second by Member Palmer, to schedule a public hearing to consider adoption of a Shade Tree Ordinance for March 20, 2013 – 6:40 p.m.
AYES: Hagen, Palmer, Simon, Volkmuth & Willenbring.
Motion passed on a 5 to 0 vote.

RFA – CLOSING FUND 205 – Throughout 2012 we received interest in the Rocori Trail fund. Staff would like to close out this fund and transfer any proceeds to Parkland Dedication – where we have borrowed money from to pay attorney fees.

Motion by Member Volkmuth, second by Mayor Hagen, to approve the closing of fund 205 and transferring all funds to fund 202.
AYES: Hagen, Palmer, Simon, Volkmuth & Willenbring.
Motion passed on a 5 to 0 vote.

ADDITIONS

RFA – FIRE DEPARTMENT – Don Simon requested approval to purchase personnel protective gear and fix up anything that needs to be repaired. This will take care of 20 people.
 Funding:

E 101-42200-538 Personal Protective Equipment \$1,242.85

Motion by Member Volkmuth, second by Member Willenbring, to approve the request as presented.
AYES: Hagen, Palmer, Volkmuth & Willenbring
AB: Simon
Motion passed on a 4 to 0 vote.

2 A.M. LIQUOR LICENSE RENEWAL– Betsy & Jeff Goebel would like approval to renew their 2 a.m. liquor license that ran out 2/8/13.

Motion by Member Volkmuth, second by Mayor Hagen, to approve the renewal of Big Daddy's 2 a.m. liquor license as requested.
AYES: Hagen, Palmer, Simon, Volkmuth & Willenbring.
Motion passed on a 5 to 0 vote.

Member Willenbring asked that in regards to CR 138 have we started talking to Stearns County about turning back CR 138 to the city. The Rocori Trail board is wondering what discussions are occurring about the trail next to County Road 138.

Member Simon asked approval for the Fire Department to go out for bids to sell the ATV.
Motion by Member Volkmuth, second by Member Palmer, to approve going out for bids to sell the Fire Department ATV.
AYES: Hagen, Palmer, Volkmuth & Willenbring.
AB: Simon
Motion passed on a 4 to 0 vote.

Member Willenbring reported that a winter fun fest would be held at the community park on 2/23 from 1 to 3 p.m.

OPEN FORUM

Scott Palmer – 21108 Fowler Road – was present to report on a successful story involving conservation easement on Big Fish Lake. Scott indicated that if development is sparked again he would encourage the Council and Planning Commission pursue adoption of the Environmental Preservation ordinance again.

ADJOURNMENT – Motion by Member Volkmuth, second by Member Willenbring, to adjourn the meeting at 7:24 p.m. Motion carried unanimously.

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

**JEFF HAGEN
MAYOR**

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