

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY, MARCH 18, 2015
– 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, Rick Tallman & Duane Willenbring. Absent: None.

Staff members present were: Administrator/Clerk Rena Weber, Finance/Utility Billing Judy Neu, Planning Commission Chair Bill Becker, Attorney Adam Ripple, Lt. Jon Lentz, & Engineer Dave Blommel

Others present were: Carol Dietman, Dorothy Tallman, Maria & Brenda Fussy, Al & Doris Schneider, Charlie & Cheryl Unger, Gavin Schmitt, Brian Herberg, Dave Zwilling, George Bechtold, Todd Beumer, & Mike Nistler.

ADDITIONS TO THE AGENDA – Motion by Member Palmer, second by Member Simon, to approve the additions to the agenda for discussion purposes.

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

OPEN FORUM

No one appeared

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

- a) **Approve minutes of 02/18/15**
- b) **Accept Treasurer's Report of 03/18/2015**
- c) **Approve List of Bills and Additions of 03/18/2015**

Accounts Payable CK #015907 – 015953	\$23,810.99
Payroll CK #004898 to 0048908	13,216.93
EFT CK #000911 to 000916	8,608.71

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

ADDITION TO THE AGENDA

VOIGT FAMILY AGREEMENT – Adam Ripple was present to review the Voigt Family proposed agreement.

Summary of Agreement

1. The Settlement Agreement will result in complete resolution of the matters between the Voigt family and the City.
2. Prior assessments and unpaid SAC charges on the development property will be cancelled in exchange for \$226,000.
3. The 2004 Assessment Agreement will be rescinded and a Notice of the Settlement Agreement will be recorded against the property.
4. The Voigt's will grant easements to clear up any title issues related to the City's lift station and cul-de-sac.
5. Voigt's are granted some assurances of deferred assessments and treatment of the homestead in the event the Pleasant Road and Water project proceeds.

Outstanding Issues

1. *Clarification of payment of homestead's assessment:* Jim and Jackie will pay off their current sewer assessment in conjunction with the Settlement Agreement, but the mechanics are still being worked out. It will either be a single payment of \$226,000 plus the remaining unpaid balance. Or, it will be a payment of \$226,000 and a separate

payment for the remaining balance. The agreement will be adjusted accordingly.

2. *Registered Land Survey*: The Voigt property is Torrens property (rather than abstract property). The Stearns County Recorder/Registrar previously issued the Voigt notice that a Registered Land Survey (RLS) is required before additional transfers or mortgages can be recorded against the property. I have a pending request to the Recorder/Registrar to allow the Notice of Settlement Agreement and the easements to be filed without an RLS in order to avoid delays. The Voigt's attorney asked the City to participate in the cost of the RLS, and I advised him that I would not recommend that to the City.

3. *Notarized signatures*: Due to all of the Voigt's presently being out of state, their signatures are not notarized. Ultimately, the document will have to be re-executed in front of a notary. I recommend that the City execute the nonnotarized version now, and simply re-execute a properly notarized version later.

4. *Lift station easement*: Depending on the RLS issue controlled by the Recorder/Registrar, this easement may have to wait to be recorded pending the completion of the RLS.

5. *Cul-de-sac easement*: As with the lift station easement, this easement may have to wait to be recorded pending the completion of the RLS. Further, the legal description for the cul-de-sac requires the assistance of a surveyor.

Requested Action

1. Approve the settlement agreement conditioned on:
 - a. Clarification of payment of homestead assessment
 - b. Re-execution of signatures in proper notarized form
2. Authorize the completion of a legal description for the cul-de-sac easement.

Addresses future potential project for Pleasant Road – deferred for 10 years
Torrens property – Stearns County issued a notice to the Voigt's that no additional subdivisions can occur without a Registered Land Survey. The easement for cul-de-sac might not get recorded until the RLS is done.

Jim & Jackie's homestead will be paying off their assessment in addition to the \$226,000.00.

Interest would accrue during the deferred time 10 years.

RLS – no the city will not pay for this.

SEH needs to provide the legal description of the cul-de-sac area.

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

RESOLUTION NO. 2015-06

RESOLUTION APPROVING A FINAL SETTLEMENT AGREEMENT WITH THE VOIGT FAMILY.

WHEREAS, the city of Rockville and the Voigt family having been working to resolve issued including: an unpaid sewer assessment, penalties, SAC fees, and easements, and;

WHEREAS, it appears that an agreement is being reached.

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

1. Approve the settlement agreement conditioned on:

a. Clarification of payment of homestead assessment

b. Re-execution of signatures in proper notarized form

2. Authorize the completion of a legal description for the cul-de-sac easement.

BE IT FURTHER RESOLVED that the City of Rockville does not want to become involved in the registered land survey and/or its costs.

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

AYES: Hagen, Palmer, Simon, Tallman & Willenbring

Motion passed on a 5 to 0 vote.

BOARD/STAFF REPORTS

POLICE DEPARTMENT—Jon Lentz reported on the months of January (39.5 hours) & February (34 hours) citing the types of calls.

PUBLIC WORKS – Requests for council action were presented for:

DITCH MOWING - Please approve the low quote for ditch mowing this year.

Schmitz Mowing Service \$62.00/hour plus fuel

Herberg Construction \$64.00/hour mower & Labor

Discussion was held regarding the cost of fuel and how that compares to higher quote.

Motion by Member Palmer, second by Member Willenbring, to approve the quote of

Herberg Construction as presented.

AYES: Hagen, Palmer, Simon, Tallman & Willenbring

Motion passed on a 5 to 0 vote.

ROAD GRADING - Please approve the low quote for road grading for 2015 & 2016

Herberg Construction \$76.00/hour blade & labor

Kraemer Trucking & Excavating \$79.99/hour CAT 140H with 14' blade

Discussion was held regarding the work done.

Motion by Member Willenbring, second by Member Tallman, to approve the low quote of

Herberg Construction for road grading 2015 & 2016.

AYES: Hagen, Palmer, Simon, Tallman & Willenbring

Motion passed on a 5 to 0 vote.

GRINDER STATION ON-CALL SERVICE –Rena Weber reported that no quotes were received for grinder station on-call service. This will go back to the Public Works Committee for discussion.

PLANNING COMMISSION – Chair Bill Becker was present to report on the following:

HAYWOOD ESTATES PRELIMINARY & FINAL PLAT – Chair Becker reported that the public hearing was held on the preliminary and final plat for the Althaus/Unger families. Park land dedication fee was approved at \$200 x 3. The Planning Commission recommends approval of both.

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

RESOLUTION NO. 2015-07

RESOLUTION APPROVING A PRELIMINARY AND FINAL PLAT TO BE KNOWN AS HAYWOOD ESTATES

WHEREAS, James & Elizabeth Althaus & Charles & Cheryl Unger presented a preliminary and final plat to be known as Haywood Estates, and;

WHEREAS, concerns of the Planning Commission were noted, and

WHEREAS, persons wishing to address the Planning Commission were given an opportunity to do so.

WHEREAS, proper notification and publication had been given.

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

- Said preliminary & final plat is hereby approved as presented and recommended by the Planning Commission with the recommendation of park land dedication fee in the amount of \$200 x 3 newly created lots.**

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

AYES: Hagen, Palmer, Simon, Tallman & Willenbring

Motion passed on a 5 to 0 vote.

PLANNING COMMISSION MEMBER APPOINTMENT – Chair Becker reported that the commission reviewed David Meyer's application to become a member of the Planning Commission and recommends the council approve the appointment.

Motion by Member Willenbring, second by Member Simon, to approve the appointment of David Meyer to the Planning Commission effective immediately.

AYES: Hagen, Palmer, Simon, Tallman & Willenbring

Motion passed on a 5 to 0 vote.

FIRE DEPARTMENT – Rena Weber requested approval to hire two new fire fighters Joshua Kneip & Christopher Weber as they have completed the necessary testing and passed.

Motion by Member Palmer, second by Member Tallman, to approve Joshua Kneip and Christopher Weber as fire fighters effective today 3/18/15.

AYES: Hagen, Palmer, Simon, Tallman & Willenbring

Motion passed on a 5 to 0 vote.

NEW BUSINESS

SET UP LICENSE – Rena Weber reported that Mike Nistler is hoping to get approval for a set-up license at Boomerville. Currently we have not set this type of fee. He has to pay the State of MN \$250. The City can charge between \$0 & \$300. The administration fee is \$25.00.

Mayor Hagen questioned whether or not the rate should be higher as it is not fair to the bar owner who pays \$1200/yr.

Motion by Member Willenbring, second by Member Tallman, to approve charging \$25 as the city fee for a set up license.

AYES: Palmer, Simon, Tallman & Willenbring

NAYS: Hagen

Motion passed on a 4 to 1 vote.

WATER CONSERVATION RATES – Mayor Hagen announced that a public hearing would now be held for consideration of a water conservation rate. Mayor Hagen cited the following:

1. MN statutes require conservation water rates by January 1, 2015.
2. The State strongly recommends tiered water rates with increasing rate as the usage increases.
3. It is recommend that increases by approximately 20% on the low end and 50% on the high end of the usage chart.
4. Rockville currently charges \$3.55/1,000 gallons.
5. Rick and Duane have been strongly against a fixed meter charge to multi-unit properties, such as their apartments and have advocated for a fixed water fee and water that is included free in the base charge. I feel this has clouded their objectivity when it comes to Rockville establishing conservation water rates and Sue Palmer met with Duane to work out a compromise.
6. A form of that compromise that included tiered rates is what was recommended by the council last month to bring this to public hearing.
7. However, I do not feel it is the best option we have for the following reasons:
 - A. There is no charge for the first 3,000 gallons and that does nothing to conserve water.
 - B. It does not provide incentive for people using around 3,000 gallons to decrease their usage towards a lower rate.
 - C. It generates more than our goal of approximately \$145,000.
 - D. I do not think the city should give any water away “free” and the base fee is to cover all or some of the fixed costs and reserves.
8. Duane recommended \$60,000 of reserves be established and the council approved \$15,000/year for the next 4 years to get there.
9. Sue’s plan generates \$159,000 which is \$14,000 more than the goal has been set.

Mayor Hagen urged members to reconsider this option.

Member Willenbring wished to clarify using 50% of the actual cost not the budget as stated by Mayor.

Mayor Hagen explained his option using a \$22.50 base fee with tiers

0 – 4,000	\$2.75/per thousand gallons
4,001 – 8,000	4.00/per thousand gallons
8,001 – 14,000	5.25/per thousand gallons
14,001 +	7.90/per thousand gallons

Open public hearing

Rena Weber read into the record Vince Schaefer's e-mail.

"I have received a few calls and emails, and also watched the Feb. Council meeting on utube about the socalled water conservation plan. I feel compelled to voice my oplnlon on this subject,as it appears to be more like a rate adjustment plan than a true conservation plan, and I am asking you to reconsider your decision and be open to some compromise on this matter.

I just finished reading an article on the water problems facing seven states with over 40 million people who depend on the Colorado river as their primary source of water. They are all very concerned about this problem, and have water conservation plans.

In all of my research I have not found one city or state that is trying to conserve water simply by gouging the public and the already struggling businesses just by raising the usage fees as the city of Rockville is attempting to do. Every entity that is dependant on the Colorado River for water feels it is their duty to solve their problem by "educating" the public on how to conserve water without making it unaffordable to the public or businesses. In a true conservation plan the emphasis should be on, why are we using this much water and how can we lower the consumption and still meet our O&M costs.

The plan Rockville is having the public hearing on will only discourage any business (like the proposed cheese plant that uses large amounts of water) ,from locating here.

To enact the rate structure that was voted on in February would be like trying to curb egg production by strangling the chicken."

Todd Beumer – 301 Birch Street South

- Todd brought in a breakdown on how this will affect his business as this will increase his water bill over \$500/month on the 5 buildings
- These rates are more complicated than they need to be. The new rates would push them over the limit.
- He has one meter, one line with 12 units.
- He understands base unit and has the same maintenance for one building that 12 houses would have.
- More education is needed.
- Todd has made improvements to his buildings.

George Bechtold –Granite Edge 244 Broadway Street West

- George stated that his dishwasher runs 7 times a day and uses 1.5 gallons.
- He also has 3 units with 0 usage for which he pays \$1300. Are you trying to push me out the door?

Tudie Hermanutz –211 1st Street West

- Tudie stated that as an individual resident she would like to look at it as conserve Vs use less water. By person is what you need to say.
- You need to teach people how to conserve more. We already used the staff time just to get to this point.
- The point is you have to conserve water. Not to charge people for using more- educate first.
- You did not want to fill out some form because it would take too much staff time.

Brian Herberg – 533 Cypress Court –

- Brian stated that in going over the proposal he uses 4500 gallons month.
- Per the old rate he would pay \$35.06 or now the new rate is a \$.44 increase per month.
- He feels the contentious issue is when you lump the flat rate and usage rate together.
- He thought that by combining the apartments you are going to be putting them up on the higher bracket. *Mayor Hagen explained that the total is divided by the number of units.*

Member Palmer explained that the state law requires that you consider each unit as a separate unit. Member Tallman agreed.

- Brian just felt that he was comparable to some of Todd's apartments and \$.44 would not be \$500. There was some confusion on the total being for a year not a month.
- Apartment owners can't reduce like a home owner can. You cleared some things up.

Carol Dietman –County Road 47

- She does not use city water, a new business that is proposing to come to town, they use a lot of water – look at the rates around here.
- What is happening with this cheese factory?
Mayor Hagen explained that we are in initial discussions with the owner and the city will look at special rates for industrial.

Todd Beumer – asked if the council has seen the City of Richmond's rate?

Member Palmer stated that she was not sure what he was referring to with the non-residential and residential rates.

Gavin Schmitz – 401 Cedar Street S

- Gavin how long has this been going on?
- Where did the proposals come from or why this was chosen?
Mayor Hagen explained that there were as many as 5 at one time which is not typical.
Member Palmer explained the rate study using fixed costs Vs variable costs.
- We are a unique city with our size.
- Using tiers on the proposal - where is the incentive to reduce?
- There is a big jump between 8000 and 14000 – no chance to lower their rate.
Mayor Hagen agreed, but that is where it gets complicated having more tiers.

Gavin – Take it back and look at it again.

Motion by Mayor Hagen, second by Member Palmer, to close the public hearing at 7:18

p.m.

AYES: Hagen, Palmer, Simon, Tallman & Willenbring

Motion passed on a 5 to 0 vote.

Member Tallman presented copies of research that he did on 15 of 20 cities that have one flat rate. All this confusion going around because of the tiers and we are stuck on that. He read off the list of names with flat rates and those with tiers. Rates in general must be nearly as possible proportionate to the cost. We also need to be fair, just and equitable.

Member Tallman thinks his proposal for a flat rate at \$5.25 was \$5000 over the budget. This is without knowing what the reserve balance is. Research shows that city's in general go with the flat rate.

Member Willenbring stated that there is a mandate coming from a state agency has a blighted look to it (DNR). They will disallow plant expansion if we ask for state funding if we do not have a conservation rate in place. We are putting too much on this when we need to educate the people. His biggest concern is the cost of water when it comes out of the faucet. What he is also concerned about is the fact there is another plan here tonight that was not the 3 – 2 vote last month.

Member Palmer indicated that we put this forward last month; however, she does worry about the top tier so she is open to looking at something else.

Member Willenbring stated that he hears a compromise. He needed a starting point. \$159,000 set aside to make bond payments. There is a tremendous amount of WAC from the Pleasant Lake that is not getting paid. The water usage participants are picking up the tab for this. He wants the city to go after Arcon. If there is a provision in the contract for clawback – this is where the problem is. He would like to have the whole city pay for the shortfall – not by just the water customers. He has no intent on being fraudulent and wants to use his 2nd proposal.

Motion by Member Palmer, second by Mayor Hagen, to put in place Mayor Hagen's proposal of \$22.50 base rate, 0 – 4,000 \$2.75 per/1000, 4,001 to 8,000 \$4.00 per/1000, 8,001 to 14,000 \$5.25 per/1000, 14,001 + \$7.90 per/1000.

AYES: Hagen & Palmer
NAYS: Simon, Tallman & Willenbring
Motion failed on a 3 – 2 vote.

Motion by Member Tallman, second by Member Willenbring, to approve Member Tallman’s proposal \$5.25 /3,000 gallon month minimum = \$15.75 minimum and \$5.25 per/1000. There is no base fee.

Member Willenbring questioned whether or not this would provide enough revenue.
 Member Tallman stated that at \$5.25 it would.
 Member Simon asked how this would affect Todd Buemer. Todd estimated that it would cost him \$30.00 less.
 Mayor Hagen asked if Member Tallman owned the apartments at 104/132 Broadway Street. Member Tallman indicated that ATG does.
 Mayor Hagen referred to the summary scenario done by staff and point out the under Rick’s proposal he would pay \$1517.25/year which is \$800, less than what he is paying now.
 Mayor Hagen pointed out that Member Willenbring (owner of 241 Broadway Street) would pay approximately \$1400 less per year under Rick’s proposal.
 Member Tallman reminded the Mayor that each apartment is considered a single unit which is the state law.
 Mayor Hagen asked if this is a conflict of interest.
 Member Tallman stated absolutely not and that he learned this at the League of MN Cities training that he is not setting rates for his apartment, but for the entire community.
 Member Willenbring stated this is true.
 Member Palmer indicated that this proposal does not generate enough money.
 Judy Neu – Finance Director pointed out that Mr. Tallman did not use the correct numbers in his calculation so it would not generate enough revenue. He did not deduct the first 3,000 gallons for each unit in his calculation which is giving it away.

Rick Tallman's Proposal with his Proposed Tier rate

	Annual Gallons			
Amount of Water Pumped	24,902,300			
2014 Amount of Water Sold	<u>20,271,604</u>			
Unaccounted for Water	4,630,696		18.60%	
Annual Operating Budget	83,071.00			
Annual Debt Service	<u>47,174.00</u>			40% of Budget
2015 Budget	130,245.00			\$ 52,098.00
	<u># Connections</u>			
Connection Information	<u>Residential</u>	<u>Commercial</u>	<u>Other</u>	<u>Total Units</u>
	242	24	122	388
	<u>Base Rate</u>			<u>Bi-Monthly</u>
				4000 gallons x 388 units
				<u>1,552,000 gallons</u>
Base Rate	\$ 10.50	\$ 10.50	\$10.50	\$ 21.00

Base Revenue	<u>Base Rate Revenue</u>			
Total Monthly	<u>\$ 2,541.00</u>	<u>\$ 252.00</u>	<u>\$ 1,281.00</u>	Total
Annual Base Revenue	\$ 30,492.00	\$ 3,024.00	\$ 15,372.00	\$ 48,888.00
% of operating Budget	23.41%	2.32%	11.80%	37.54%

Per/1000 gallons	<u>Per/1000 Gallon Tier Rate</u>			%	<u>Revenue Water Sold by tier %</u>
0-4000	20,271,604-1,552,000=18,719,604			23%	\$ -
4001+	\$ 5.25	\$ 5.25	\$ 5.25	<u>77%</u>	\$ 75,674.00
				100%	
				Total Revenue	\$ 124,562.00
				Annual Gain/<u>Shortfall</u>	\$ (5,683.00)

Member Willenbring still wants his proposal looked at. It is a slight increase and tiers.
 Member Simon reported that Duane’s proposal earned \$113,000.
 Member Hagen stated the council agreed to generate \$143,000 so this not enough.
 Member Willenbring still wanted to know what the starting point is. The auditor e-mailed staff and said this should not be discussed.
 Rena Weber reported that it was her recommendation not the auditor.
 Member Simon stated that we have been looking at this for the past couple months, this proposal got our citizens to come forward, but a half a dozen showed up. Maybe we need to open the tiers up more, but we need to make enough to operate. How are we going to conserve water? Education is a must.
AYES: Tallman, Willenbring
NAYS: Hagen, Palmer, & Simon.
Motion failed on a 3 -2 vote.

Member Tallman stated that he has not seen anything in writing about tiers. State law says and it is just and equitable. This is just being ignored. How is a tiered rated just and equitable.
 Member Palmer read the state law section 103G-291.
 Mayor Hagen to Member Simon stated that you seem to have a deciding factor in this. We can have a separate agreement with commercial.
 Member Simon suggested:
 0 to 4000 – \$2.75
 4001 to 8000 – \$3.60
 8001 to 20,000 – \$4.50
 20001 + -- \$7.00

Mayor Hagen stated that when he looked at the percentage of users in the tiers he tried to look at where the incentive could happen.
 Todd Beumer suggested no flat fee; no minimum \$6.00 will bring you up to \$120,000
 Member Tallman stated that we need the numbers in order to make a decision.
 Member Palmer suggested looking at \$22.50 base fee and:
 0 – 4,000 = \$3.00

4,001 to 8,000 = \$4.25
8,001 to 14,000 = \$5.00
14,001 + = \$6.50

Motion by Member Palmer, second by Member Willenbring, to table action on the conservation water rate
AYES: Hagen, Palmer, Simon, Tallman & Willenbring
Motion passed on a 5 to 0 vote.

ADDITION TO THE AGENDA

LIABILITY INSURANCE WAIVER – Motion by Mayor Hagen, second by Member Willenbring, to approve the liability insurance waiver as presented.
AYES: Hagen, Palmer, Simon, Tallman & Willenbring
Motion passed on a 5 to 0 vote.

REFUSE HAULERS - Member Tallman wished to bring this discussion up as our roads are taking a beating. Member Tallman would like to resurrect the task force.

Member Willenbring suggested that the make up of the task force would have to change.

Carol Dietman suggested that an article in the newsletter encouraging people to get together and contract together.

OPEN FORUM

ADJOURNMENT – Motion by Member Palmer, second by Member Willenbring, to adjourn the meeting at 8:34 p.m. Motion carried.

VERENA M. WEBER-CMC
ADMINISTRATOR/CLERK

JEFF HAGEN
MAYOR

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