

**MINUTES OF A REGULAR CITY COUNCIL MEETING HELD WEDNESDAY  
OCTOBER 19, 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, Planning Commission Chair Toni Honer and Ron Wasmund – Building Inspector.

Other's present were: Lt. Jon Lentz, Tудie Hermanutz, Eugene & Jan Mick, Stephanie Dickrell, Dave Volkmuth & Gwen Ballinger.

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

Randy Volkmuth reported that the Pleasant Lake Homeowners Association is concerned about the area to the right of the public access stating that it is becoming a beach. There used to be a sign posted where no swimming was allowed. They are concerned that this is a safety issue and would like to see if the city can put in a word with the DNR.

Lt. Jon Lentz indicated they could enforce this if the sign is put up. Rena will follow up with the DNR on this request.

**CONSENT AGENDA**

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

- a) **Approve minutes of 09/14/2011**
- b) **Approve Treasurer's Report of 10/19/2011**
- c) **Approve List of Bills and Additions of 10/19/2011**

<b>Accounts Payable Check # 013201 to 013271</b>	<b>\$94,221.90</b>
<b>Payroll Check #004075 to 004103</b>	<b>18,899.90</b>
<b>EFT #000560 to 000570</b>	<b>7,759.42</b>
- d) **Unpaid bills to tax rolls pending pmt. before 11/15**      **\$65,189.23**

**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 September 33 contract hours were charged. With this there were 5 citations.

Rena Weber reported that since the last meeting she reviewed both the noise ordinance and Basic Code nuisance ordinance and feels that the city is covered by the requirements. The adoption also includes the MN State rule regarding decibel limits so it is available to use should we need to. Staff will give a copy of both ordinances to the bar owners.

**PLANNING COMMISSION** – Chair Toni Honer was present to report on the following:

**ADMINISTRATIVE PLATS** Roger Bechtold 25705 County Road 2 & Greg Mueller 25770 133<sup>rd</sup> Ave. have both requested approval to split off their farm houses from the tillable land. These are necessary so the property owners have an option to sell their properties once CAPX 2020 wants an easement on the land for the power line.

They are setting aside the difference to equal 40 acres on the rest of the property. This is not for any building project. No council action is needed.

**COVENANT EUGENE AND JAN MICK - 24935 County Road 138** Rena Weber indicated that they own two lots 2 & 3, Block 1 of Mickville which is separated by a Mick Lane – one is homesteaded, one is not. They would like to combine the two lots and get the benefit of lower taxes. They have signed a covenant that says they have to be sold together and can't be split unless they apply with the future council to release the covenant.

**Motion by Member Volkmuth, second by Member Howe, to approve the following covenant as presented:**

**COVENANT**

***In consideration of the approval to combine two lots into one for homestead credit purposes, the undersigned owners covenant and agree with the City of Rockville, Stearns County, Minnesota, a municipal corporation, which no dwelling, structure of other building shall be constructed on:***

***Lot 3, Block 1, Mickville and must be sold with Lot 2, Block 1, Mickville. This shall be forever conveyed only as an integral and inseparable parcel, and all deeds of conveyance shall so provide, and the purchasers, grantees, and encumbrances, by acceptance of the conveyance covenant and agree for themselves, their heirs and assigns forever that the foregoing restrictions shall be a covenant running with and binding both lots and block.***

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

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

**FLOODPLAIN ORDINANCE** – Rena Weber reported that the Planning Commission reviewed this at their last meeting. It is quite simply a sample ordinance provided by the DNR which was modified to fit Rockville's needs. The only area this affects is along the Sauk River (which is in the floodplain). Your approval of the concept is needed so I can send it to the DNR who will review and after they approve it we will hold a public hearing.

***Motion by Member Howe, second by Member Becker, to accept the proposed floodplain ordinance to be sent to the DNR for approval. Copy is hereby attached as Exhibit A.***

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

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

**PUBLIC WORKS** – Public Works Director Rick Hansen submitted a request for council action: Please approve the purchase of salt for the upcoming snow removal season. Prices are as follow.  
Amcon \$85.36/ton delivered-24 ton minimum  
Holicky Bros. \$75/ton delivered-24 ton minimum  
2011 state bid price \$76.39/ton delivered  
Please approve Holicky Bros for 48 tons of salt for a price of \$4097.28  
We will be getting the sand from Kraemer Trucking and Exc. at a price of \$5.00/ton. We will need approximately 144 yards.  
Fund # 101-43100-228 balance is 2011 budget \$7,843.64

***Motion by Member Volkmuth, second by Member Willenbring, to approve the purchase of salt from Holicky Brothers at a price of \$4,097.28.***

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

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

**OLD BUSINESS**

**2011 AMENDED FEE SCHEDULE** – Rena Weber reported that this change includes going from \$50 to \$100 for shut-offs. The Public Works Committee recommends this as hopefully a way to get people to pay their bills.

***Motion by Member Volkmuth, second by Member Simon, to approve the 2011 amended fee schedule as presented:***

Member Howe questioned why this is being done.

Member Volkmuth explained that staff is recouping the time spent in collecting payment for unpaid water/sewer bills.

Member Howe asked if this will improve the situation. The fee should affect the expense. When we put the stem on the valve to shut the water off – the decision has been made.

Member Willenbring stated that once Public Works mechanism is on a roll they have already violated the rule as the decision has been made here (Administration).

Member Howe felt the fee should cover the cost so when the Public Works goes out it is assessed.

Member Willenbring stated the city should be made whole, but the city should not get rich on this. Administration makes the decision and Public Works does the shut off.

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

**TOM MASELTER** –Rena Weber reported on the history involving the abatement issue. Mr. Maselter bought a garage and received approval from the former city of Rockville to operate a cabinet making business out of. Tom had a shed to the east of the property and decided to attach the two structures without a permit. By attaching the two structures he needed to have plans drawn up by an architect (snow load) is the issue here. He was looking at a variance from setbacks, a new reinforced roof or tear down the former shed and construct higher on the original garage.

Toni Honer reported that the Planning Commission has visited with Tom a number of times and tried to get a firm answer from him. This is a liability issue with him working in this garage with an unsafe roof – if it should collapse the city may be sued for allowing him to occupy a structure that was not up to par. He asked the Planning Commission what he needs to do and we told him. He is not following through. The Planning Commission is concerned too and is at the point whereby abatement is the next step.

Ron Wasmund – Building Inspector reported on the building structure and the issues involved.

As the structure sits now it would fall (without the design that would support the structure that was completed over there) undersized structurally and we are unclear in how it is being used. There could be fire separation issues. This sub-standard structure would fall under MN State Building Code Chapter 1300.0180

In that section there are certain steps that need to be followed:

- ◆ The city needs to notify Mr. Maselter of the sub-standard building. MN State Building Code Chapter 1300.0110
- ◆ Formal action – notify him of the substandard condition of the building
- ◆ Condition Abatement can be ordered by removal or have engineering and some invasive measure such as taking off sheeting of the interior finish to show how the structure was put together or tear it down

Member Volkmuth questioned how close he is to the property line. Member Howe reported it is about right on the line. Chair Honer reported that the real issue is that Mr. Maselter wants to put a bathroom in the lean to portion that is now attached to the main structure thereby expanding a non-conforming use.

The Planning Commission has asked for the engineer information regarding the roof strength and nothing has been brought in.

Mayor Hagen asked if the concern is because he wants to live there. Ron Wasmund reported that the fire wall is required because of proximity to property line and also the area of the shop and storage including this area that has been finished off exceeds the building code storage limit.

Ron Wasmund reported that the building code states that every building is assigned a occupancy classification use and a construction type.

- ◆ Occupancy classification use ranges from assembly to residential.
- ◆ Construction type ranges from 1A (which is fire resistant concrete) to 5 B (which is common wood construction) so with each occupancy classification paired with the construction type there is an allowable size allowed without a fire wall.

- ◆ An F-1 cabinet shop in a 5B construction you are allowed a 6,000 sf one story structure.
- ◆ We do have a fire wall issue due to the proximity of the lot line. We have nothing right now. By doing the 12' to 14'in fill between the main structure and the lean to the exterior wall of the lean to is an extension of the cabinet shop so it needs to have a fire wall as it comes in proximity of the property line.
- ◆ If it is a residence as he has indicated he wants to create – then the fire resistant wall is required between the cabinet shop and residence so different rules apply.

Member Volkmuth asked if the issue really is requirement of the engineers report and addressing the fire wall.

Member Howe indicated we don't know how it was built and the bigger issue is we do not know what the truss system is or is it inadequate. What has to be done is Mr. Maselter is to get an engineers report to pull a permit, bring it up to code and this has not been done. Part of this is a money issue.

Member Volkmuth asked what our options are.

Member Becker asked if we need to give him a timeline to respond to the request.

Ron Wasmund stated we need to notify him under MN Building Code 1300.0180 of the sub-standard building.

- ◆ Give him time to respond to correct the problem
- ◆ He can respond with a plan for the intended use of the building

If he responds back with a plan and demonstrates he has made progress then we can deal with the abatement process. If he does not respond or responds with a negative response then we respond as a city with a court order to remove the elements that are sub-standard.

Member Volkmuth asked Ron if he has dealt with this in the past. He agrees that the city needs to do something but if money is the issue then what.

Ron Wasmund replied that if money is an issue then he has to undue what he did when he enclosed the structures and caused it to be non-conforming.

Mayor Hagen asked about the fire resistivity and we have at least one building that is on the lot line and the exterior wall does not meet the fire wall requirement as it stands. If we go back to before he connected the two he did not meet the requirement. Ron Wasmund indicated this is correct.

Mayor Hagen stated so if you require him to take down the area that he connected the two he still has that problem. Ron Wasmund indicated there is, but there would be a 14' gap between the cabinet shop and what was and is a detached storage shed, but would be enough distance to affect the fire resistant rules.

Member Willenbring asked is everything documented and then if a structural engineering firm is called in will Ron be looking at that certification? Yes

Member Willenbring questioned the cost to doing this and should it be a cost to the citizens. No it would be put on the tax rolls.

Member Willenbring asked is there allowable land east? No

Mayor Hagen asked if there are other options like putting a lock on it or find another avenue like turning off the gas – electricity. This needs to be looked into.

Member Volkmuth agreed with the Mayor that this should be the avenue to take.

Member Becker asked if there are steps to be followed. Rena Weber reported that Ron Wasmund has supplied the steps that need to be followed. *Refer to document marked Exhibit B*

***Motion by Member Volkmuth, second by Member Willenbring, to take the proper steps by first putting together a letter stating what is sub-standard, what actions we plan to take if he does not follow through and also set definite deadlines for expected completion. Further he is to be notified that certain costs are being generated by the city building inspector and city staff and he will be billed those costs.***

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

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

### COMMITTEE REPORTS

**RENTAL ORDINANCE – SUB-COMMITTEE** - Ron Wasmund reported that he did not generate the language for the ordinance amendment, but the committee wants to look at a way that recognizes rental property owners that are compliant each year without any changes by looking at a bye year for rental fees. No inspections.

The more problematic property would still have to comply.

Ron Wasmund is to come up with a fee schedule that mirrors the bye year for people and to step up the heat with those who have problems with their property.

**EDA – RENTAL OF CITY HALL MEETING ROOM** - Rena Weber reported that Aaron Miller - APS has been renting the city hall meeting room 2 – 3 times a week and will continue to do so if they can get a discounted rate \$100 per month. Rena reported that this has not been an issue and feels the extra income does not hurt. The EDA recommends approval to charge the \$100/month fee.

***Motion by Member Volkmuth, second by Member Willenbring, to approve charging a fee of \$100/month to rent the city hall meeting room.***

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

**TOTAL LAWN CARE** – Mayor Hagen spoke about why he said what he said regarding Total Lawn Care in the St. Cloud Times recently. He is not a supporter of tax abatement, JOBZ, or TIF as companies use this as a tool to pit city against city or township. If the amount of tax abatement is that critical and is going to make or break them then they probably had a weak business plan by building too much, spending too much and making promises they can't keep. When they don't keep those promises such as hiring a certain amount of people at a certain wage, the community that is giving up the tax dollars does not have any way of enforcing it. He thinks people tend to forget that it is not only the city taxes being abated, but also the county and school district taxes so that shifts the tax burden so effectively we are taking the future tax dollars from the business and private residents portion of the taxes.

He also thinks that you can get into a situation with a company that has larger political or economical clout and is using it against the city. He can see why a company would use it, but he would like to see the state or federal government take the programs away so companies would stand on their own.

Mr. Griffin stated he always intended to stay in Cold Spring. We are not doing our neighboring cities (like Cold Spring) any favors because all we are doing is making it more expensive for them to keep the business.

Mayor Hagen is not sure how this fits with the EDA because their goal is to get new business in the city. He is not sure how the Council feels about this and maybe we need to schedule a joint session with the EDA.

Rena Weber asked if he feels differently about keeping businesses in the city.

Mayor Hagen asked if the business is coming to us saying if you don't give us a tax break we are going to move somewhere else. How is that any different from a new business?

Member Volkmuth indicated that he had changed his mind about business subsidy from 10 years ago. Even though you are bringing jobs to the city you are taking them away from someone else. In his mind this is a zero sum game and feels the business is pitting another city against us.

Mayor Hagen suggested we schedule a meeting with EDA to discuss this further.

Member Simon indicated that we have to do something. Several people have told him that Rockville does not want business. There has to be some way we can help people stay here.

Member Volkmuth disagreed as there are costs to moving a business. The issue is that you are pitting one city against another and the only one that wins is the business. TIF in general used to be for residential.

Member Howe indicated he did not have a problem with TIF for infrastructure costs.

Member Volkmuth feels that this is what was intended, but has changed since then.

Mayor Hagen indicated that typically city councils are not professional investment people. Letting your council make a decision picking winners and losers in deciding where to invest your tax dollars is not something he is comfortable with.

Member Volkmuth indicated that basically you make it okay for a business to operate, but not be enriched by the tax payers.

Member Willenbring stated we need to have a serious discussion with the EDA about the future.

**RTCB** – Rena Weber reported that the RTCB is in support of setting up a Rocori Area Foundation to support such things as the Rocori Trail. There are people out there who want to donate funds to a project and we should keep that money local.

Member Willenbring reported that appraisals are being done on the property in Cold Spring and should be finished up soon.

**MAYOR REPORT** - Mayor Hagen had nothing to report.

#### **NEW BUSINESS**

**REQUEST TO PLACE SEWER STUB ASSESSMENT ON TAX ROLLS** - Mike Laudenbach purchased one of the Voigt's 7 lots and again the Voigt's did not tell him that there was an extra expense to hook up to trunk sewer. He is asking if this can be put on the tax rolls for 10 years like we did with Lois Lenzmeier. The amount is \$6680.86 for 10 years at 4.34% interest.

***Motion by Member Volkmuth, second by Member Howe, to approve the request to place \$6680.86 on the tax rolls for 10 years at 4.34% interest.***

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

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

#### **ADMINISTRATOR'S REPORT**

**SERVER** – Rena Weber requested approval of:

Please approve the bid of Dijital Majik for a new server. I received two quotes:

CW Technology	\$5390 installed
Dijital Majik	\$4509.74 installed

We moved into the new city hall in 2006 and 5 years is the length of time a server is estimated to be good for. We have \$160,000 + in the general fund designated funds and I propose to use this.

Fund # 101-41940-540 (\$2,000 from 2011 budget)

Designated Fund # 101-41940-540 (\$2,510 remaining portion)

Budget Amendment

Decrease Designated Funds 101-41940-540	-\$2,510
Increase 2011 budget 101-41940-540	+\$2,510

Journal Entry reflecting the reduction in Designated Funds

DR Designated Funds	\$2,510
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CR Unreserved Funds	\$2,510
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***Motion by Member Volkmuth, second by Member Becker, to approve the purchase of a new server and budget amendments as presented.***

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

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

**SPEED STUDY** – Rena Weber reported that Stearns County would like the council to request the speed study previously discussed by way of adopting a resolution.

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

#### **RESOLUTION NO. 2011-18**

#### **RESOLUTION REQUESTING SPEED INVESTIGATION STUDY ON COUNTY ROAD 8 AND 139 IN THE CITY OF ROCKVILLE**

**WHEREAS**, Certain speeding problems have been noticed on County Road 8 – between old and new Highway 23,

County Road 139 – Sauk River Bridge north to intersection of Sauk River Road and County Road 139, and;

**WHEREAS**, It is in the best interest of the city of Rockville to ensure the safety of its residents.

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

1. The City Council hereby requests that a speed investigation study be done on portions of County Road 8 and 139 in the City of Rockville.

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

**MUNICIPAL CONTRIBUTION** – Rena Weber reported the city was notified of a reduction in municipal contribution to the fire relief association for 2012 to \$18,139.

**REQUEST FOR COUNCIL ACTION** – Rena Weber reported that the Rockville Lion’s Club has donated \$2,000 plus they will donate the additional \$283.26 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 \$2,283

Increase Expenditure Fund # 101-45122-590 \$2,283

**Motion by Member Willenbring, second by Member Volkmuth, to approve the request as presented.**

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

**OPEN FORUM**

**LETTER TO EDITOR** – Member Willenbring wished to point out that a letter to the editor *Cold Spring Record* recently cited Eagle Park as one of the most original of Mother Nature’s environment.

**DAVE VOLKMUTH – 25574 LAKE ROAD** – Mr. Volkmuth indicated he was listening to the discussion on business opportunity. He reported that his brother Don and a few other St. Cloud businessmen were assigned to bring business to their industrial park. They could not do that without the help of the City of St. Cloud. He urged the council to keep the door open so people can come in some way somehow. We need to have business in Rockville in the future.

**SCML MEETING** –Member Simon spoke of the SCML meeting held last night in Rockville where the market value homestead credit issue was discussed.

Member Willenbring reported that the money that we will not be getting amounts to \$42,600.

**ADJOURNMENT** – **Motion by Member Volkmuth, second by Member Schmitt, to adjourn the meeting at 7:15 p.m. Motion carried unanimously.**

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

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**JEFF HAGEN**  
**MAYOR**

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