

**1. Call to Order.** The regular meeting of the Council of the City of Rogers was called to order by Mayor Paul Przybilla on Tuesday, November 25, 2008 at 7:00 p.m. at Rogers Community Center, 21201 Memorial Drive, Rogers, MN, 55374.

Council present: Mayor Paul Przybilla, Jamie Davis, Jason Grimm and Steve Rauenhorst.

Staff present: Chuck Burnham, City Planner; Jeff Carson, City Attorney; Stacy Doboszinski, Asst. City Administrator; Scott Lange, City Engineer; John Seifert, Public Works Superintendent; Steve Stahmer, City Administrator; Lisa Wieland, Finance Director; and Amy LeMieux, Recording Secretary, JASS.

**2. Open Forum.** None.

**3. Presentations.** None.

**4. Approve agenda.** There were no changes to the agenda.

**5. Consent Agenda.**

**5.01** Approval of Minutes from November 10, 2008 City Council meeting, November 10, 2008 Budget Workshop; November 17, 2008 City Council Special Meeting

**5.02** Approval of Bills and Claims

**5.03** Resolution No. 2008-50, A Resolution Authorizing the Elm Creek Watershed Management Commission to Develop a Total Maximum Daily Load for Elm and Rush Creeks and Diamond, Fish, French, Rice and Weaver Lakes and Requesting the Commission to Act on Behalf of Its Member Communities

**5.04** Rogers Activity Center Advertising Rate Special Pricing

**5.05** Escrow Release for 20756 Goldenrod Lane

**5.06** Approval of Final Pay Application for Memorial Drive Sidewalk

**5.07** Approval of Final Pay Application for the Public Works Maintenance Facility

**5.08** Approval of Final Pay Application for the Rogers Drive Box Culvert

Item 5.05 and the November 10 minutes as item 5.01a were removed from the agenda.

[Grimm arrived 7:01 p.m.]

Motion by Rauenhorst, second by Davis to approve the consent agenda excepting items 5.01a and 5.05. Motion carried 4-0.

**5.05** Motion by Rauenhorst, second by Davis to table item 5.05 per Staff request. Motion carried 4-0.

**5.01a** Item 7.02 in the minutes shows a misprint. The rebate threshold amount will be changed from \$5,000 to \$500,000. The motion for item 7.02 will be changed as follows: ...to retrieve and update monthly and/or weekly reports.

Motion by Davis, second by Rauenhorst to approve the minutes of the November 10 Council meeting with the changes of \$5,000 *annually* to \$500,000 *annually* and *monthly* to *monthly and/or weekly*. Motion carried 4-0.

**6. Public Hearing.** None.

**7. General Business.**

**7.01 Fletcher Lane Improvement – Review Quotes.** Four bidders submitted quotes for the project. Twin Pines Earthworks of Zimmerman submitted the lowest bid and has worked with the city before. At this time of year, Staff recommends attempting to get the drain tile and concrete headwall installed. These items will be paid by Rogers at the time of completion and reimbursed by Hassan on January 1, 2009 to satisfy the annual budget of Hassan.

Staff recommends awarding the project to Twin Pines Earthworks and funding the project from the remaining funds in the 2008 Unpaved Streets line item, with the remainder to be paid from the Stormwater Utility funds.

Motion by Davis, second by Rauenhorst to accept the bid from Twin Pines Earthworks and fund the project as recommended by Staff. Motion carried 4-0.

**7.02 Extension of Mobile Classrooms for Mary Queen of Peace.** Staff received a citizen complaint regarding the mobile classrooms at 21101 Church Avenue. Staff researched the item and found Council granted a five-year approval on April 22, 2003. At that time, Council granted the applicant the option of a five-year extension. Staff contacted the Chairman of their Construction Committee. This is tied to their capital improvements and their plan is to have construction completed and the mobile classrooms removed by 2013. Staff recommends granting an additional five-year extension with the mobile classrooms to be removed by April 2013.

Motion by Rauenhorst, second by Grimm to allow the extension of the mobile classrooms to be located on that site until 2013, with the classrooms to be removed at that time. Motion carried 4-0.

**7.03 All-Way Stop Sign Request at Harmony Ave and Savanna Drive -- Review Study.** Staff was requested to review this item by the homeowners association at Brockton Meadows. The main concern is speed through the intersection. The intersection was reviewed and a traffic count performed for morning and evening peak hours. According to state and City of Plymouth process manuals, based on both count and speed at the intersection, there is no warrant for a stop sign. While cut-through traffic does occur from the Brockton Lane/County Road 144 intersection, a stop sign is not justifiable. What could justify the installation of an all-way stop is an unacceptable amount of waiting time to get across the intersection due to traffic.

Staff recommends denial of the stop sign request at this time with the caveat that one may be required in the future due to the cut-through traffic.

The Council was at consensus with Staff's recommendation.

**7.04 2009 Fee Schedule Ordinance.** Many fees are determined by statutes, but permit and building fees are set by ordinance. The City organizes all fees into one schedule for ease of use.

Motion by Davis, second by Rauenhorst to approve the 2009 master fee schedules and attached ordinance to become effective January 1, 2009. Motion withdrawn by Davis, second withdrawn by Rauenhorst.

Motion by Grimm, second by Rauenhorst to approve the fee schedule with the exceptions of the City of Rogers Offenses and Administrative Fines to be discussed at a future meeting. Motion carried 4-0.

**7.05 Rezone Properties from Agricultural (AG) to Limited Industrial (LI) within the City of Rogers Zoning Ordinance.** On Tuesday, November 18, 2008, the Planning Commission recommended approval of the rezoning for four of those properties to Limited Industrial (LI). The four properties recommended for rezoning to LI are located mostly on the north side of Industrial Boulevard, with a land hook to property to the east (across Industrial Boulevard) adjacent to the existing self storage units.

The final property; which is located on the south side of Industrial Boulevard, is proposed to be rezoned to Mid Density Residential (R-3) and will return to the Planning Commission for further review at their regular meeting in December. The Planning Commission requested additional information from the City Attorney regarding an interpretation of whether the southern property could be utilized for mining purposes if the site area is rezoned to R-3. The Council will not consider this property for rezoning at tonight's meeting.

Staff recommends approval of the rezoning of the four properties north of Industrial Boulevard from AG to LI.

Motion by Rauenhorst, second by Davis to approve the rezoning of the four identified properties generally located on the north side of Industrial Boulevard. Motion carried 4-0.

Staff will create an ordinance to effect the rezoning and it will be presented for approval at the next meeting.

**7.06 Preliminary plat and Conditional Use Permit application for the construction of a four story hotel, not to exceed 55 feet in height.** On Tuesday, November 18, 2008 the Rogers Planning Commission recommended approval of the Conditional Use Permit (CUP) and Preliminary Plat for a proposed new four-story Sleep Inn to be located on a new proposed street between Richard Street and Commerce Boulevard within the City of Rogers by a vote of 6-1, with Commissioner Kornovich voting no.

The room count has been reduced from 82 to 79 and the total square footage has been reduced from 45,238 to 44,696 to accommodate internal changes to the building relating to a modified indoor swimming pool plan. The right-of-way was reduced from the standard 80 feet for commercial streets within the City to 60 feet.

Staff is seeking authorization for City Attorney to pursue a developer's agreement with the hotel's attorney with the conditions listed by the Planning Commission, provided here.

Staff recommends approval of the CUP and Preliminary Plat subject to the following conditions:

1. The applicant shall correct all requirements as suggested in the Planning Department memorandum of November 14, 2008.
2. The applicant shall complete all requirements as required in the Fire Department memorandum of November 4, 2008 prior to a certificate of occupancy being issued.
3. The applicant shall complete all requirements as required in the Engineering comments of October 15, 2008 and October 21, 2008 prior to a grading permit being issued.
4. The applicant shall complete all requirements of the City Engineer comments of November 11, 2008 prior to a building permit being issued.

5. The applicant shall dedicate \$16,560 in funding for park dedication prior to recordation of the final plat.
6. The applicant shall dedicate \$19,209.60 in funding for transportation funding prior to recording of final plat.
7. A trail shall be depicted along the frontage of Outlot A on Commerce Boulevard back to South Diamond Lake Road, which will be made a part of the 429 process for the construction of the new 135th Avenue North.
8. A developer's agreement shall be drafted for the platting of the subject property that includes all standard city fees charged through the platting process to include, but not be limited to park dedication, transportation, additional lot fees, storm and sanitary sewer fees, as well as trail fees.
9. The final plat shall be recorded prior to any building permits being issued for the subject property.

Since the street to the hotel will serve mainly auto traffic and will have no parking along the street, the 32-foot width is satisfactory. The road widens at Rogers Drive to allow right-turn lanes and the connection at Richard Street is a right-in/right-out only.

Mr. O'Dell, on behalf of John Darkenwald, stated that, with the economy in its current condition, other hotels in the area are not doing well, citing a current occupancy run for the Hampton Inn at an average of 40%. The Holiday Inn in Otsego has filed bankruptcy and owes over \$814,000 in 2007 and 2008 property taxes. He cautioned the Council in allowing the Sleep Inn to be built since feasibility studies and financing information weren't provided to the City. However, the CUP analysis is for land use and cannot be used to require financial information.

Motion by Rauenhorst, second by Davis to approve the CUP and preliminary plat with the nine conditions listed above. Motion carried 4-0.

**7.07 Rewriting of Sections 502-505 of the Zoning Ordinance to comply with current state statutes in relation to Conditional Use Permits and Variance applications.** The City of Rogers and the Town of Hassan are merging together into a single community. As such there are many places in the zoning and subdivision ordinances that will need to be amended in order to merge the two communities. One area where the codes are different relates to process and the items required to be submitted in order to file a conditional use permit (CUP) or a variance. The City of Rogers recently approved submittal sheets for the types of information necessary in order to file these types of applications. The Town of Hassan relies on their development code to obtain this type of information for their submittals. The goal of merging the two ordinances together for variance and conditional use permit criteria is to ensure that persons submitting these types of applications have clear criteria to follow on January 1, 2012 when the merger of the two communities is set to occur.

On November 25, 2008 the Planning Commission unanimously recommended approval of the amendments to the Zoning Ordinance related to how the City processes these types of requests.

Motion by Rauenhorst, second by Davis to approve the amendments to the Zoning Ordinance for the processing and procedures to follow as related to CUP and Variance applications. Motion carried 4-0.

**7.08 Rewriting of the subdivision to comply with current state statutes.** Staff noticed the timeframe within this subdivision doesn't comply with current state statutes. Amendments include a 60-day time frame for the City to respond and security amounts up to 150% for lines of credit to better secure the City in future

developments. Information regarding trails from the Trails and Open Space plan has been added to inform developers of the requirements for trails shown adjacent to developing properties. Fees were removed since they are part of the master fee schedule. The street-naming map and simple lot-split information was also added.

Motion by Davis, second by Grimm to approve Staff recommendations regarding the ordinance amendments. Motion carried 4-0.

**7.09 Addition of a Wind Energy ordinance to the City Zoning Ordinance.** The Planning Commission reviewed this new ordinance and recommended approval in a 6-1 vote, Bunting opposed.

The City has received multiple requests to install wind energy devices within city limits. Currently, there is no provision to allow them within the city. This ordinance is based on the Maple Grove and Model Wind Energy ordinances. The ordinance provides for removal of abandoned structures, height requirements and requirements for CUPs.

Jay Bunting, 22643 Jessup Place, stated that he is not against windmills but wants to ensure property owner rights in residential areas since the windmills are large and can be unsightly.

Motion by Grimm, second by Davis to approve the ordinance. Motion carried 4-0.

**8. Other Business.** None.

**9. Correspondence and Reports.**

**9.01** Rogers Arena Commission Meeting Minutes – September 8, 2008

**9.02** Rogers Park Board Meeting Minutes – Sept. 16, 2008 and October 21, 2008

**9.03** October Financial Reports

**10. Adjourn to Closed Session.** There being no further business, motion by Grimm, second by Rauenhorst to adjourn to closed session. Motion carried 4-0. The meeting was adjourned at 8:19 p.m.

**10.01 Mediation Agreement Update – Scherber.**

The meeting was reconvened and opened at 8:37 p.m.

Motion by Grimm, seconded by Rauenhorst to adopt Resolution No. 2008 – 51, A Resolution Providing for Special Assessments. Motion carried 4 – 0.

**11. Adjourn.** There being no further business, motion by Rauenhorst, second by Grimm to adjourn. Motion carried 4-0. The meeting was adjourned at 8:38 p.m.

Respectfully submitted,  
Amy LeMieux  
AAL:tim