

MINUTES OF THE REGULAR MEETING OF THE ROGERS CITY CITY COUNCIL
HELD IN COUNCIL CHAMBERS ON TUESDAY, NOVEMBER 17, 2009

Mayor Hall presided and called the meeting to order at 7 p.m. with Council Member Darga leading the Pledge of Allegiance.

ROLL CALL: PRESENT – Council Members Darrin Darga, Debra Greene, Gary Nowak, Thomas Sobeck, and Mayor Beach Hall.

OTHER CITY PERSONNEL PRESENT – City Mgr. Mark Slown, Police Chief Matt Quaine, and Clerk/Treasurer Theresa Heinzl.

It was moved by Council Member Greene, seconded by Council Member Darga, that the minutes of the Workshop Meeting of November 3, 2009 and the minutes of the Regular Council Meeting of November 3, 2009 be approved as written.

ROLL CALL: Ayes – All, the motion carried.

CITIZENS APPEARING BEFORE THE COUNCIL:

Gary Rickard addressed Council on behalf of Larry Darga, who works at the Transfer Station. Rickard and Darga both agree that the transfer station should be open another day of the week as there are a lot of people using the facility. City Mgr. Slown was asked to talk with Wayne Hewett, who holds the contract with the City to operate the transfer station.

CITY CLERK'S REPORT:

To arrive at a mutual date for a budget workshop, Council Members were given a calendar in their meeting packets and were asked to indicate the days on which they each had other commitments. Once these are turned in, they will be compiled and a date will be set for the requested budget workshop.

CHECK AND INVOICE APPROVAL:

It was moved by Council Member Nowak, seconded by Council Member Greene, that the following total fund expenditures be recognized as payments made and payments to be made, approved as such, and the Mayor authorized to sign the check register.

General Fund	193,417.69
Major Street Fund	68,668.37
Local Street Fund	11,592.04
Band Fund	300.00
Community Development Authority	3,702.14
Small Cities Grant Fund	200.00
VSCI Capital Projects Fund	53,178.02
Wastewater Treatment Operation Fund	14,509.08
Water Utility Fund	62,190.19
Marina Operations Fund	12,923.00
Garbage Collection Fund	8,942.67
Equipment Fund	14,494.16
Trust and Agency Fund	2,548.37

ROLL CALL: Ayes – All, the motion carried.

CITY ATTORNEY'S REPORT: Atty. Vogler was not present at this meeting.

CITY MANAGER'S REPORT:

City Mgr. Slown reported on the following:

- **Vacant Properties Letters:** The letters were sent to property owners that had vacant parcels over 10 acres in the City. Three responses were received indicating interest in providing worker housing for the anticipated influx of construction personnel should the Wolverine Power Plant Project be approved. Property owners showing interest included R.S. Bennett, Sparky Bergevin, and Jesse Chappa.
- **VSCI Projects:** The Street Light Project is moving ahead; the lights are actually expected the first week of December. Progress is continuing on the Wayfinding and Economic Study Projects. The final meeting for the Economic Study will most likely be scheduled in December. The Façade Projects are continuing as well.
- **Main Street Program:** This is an ongoing program to provide aid to the downtown area and highway corridor.
- **2009 Sidewalk Program Report:** A final report was provided in the Council packets. The property owners will pay for approximately \$16,000 of the \$27,351.54 total project costs.
- **Letter from Concerned Taxpayer:** Slown addressed the letter from the concerned resident. He mentioned that he appreciates comments from residents and taxpayers. Slown has spoken to the

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owner of Grulke Hardware and this will be cleaned up, and both he and Chief Quaine have addressed the Fourth Street parking lot issue. He will speak with the City Attorney on the Gapczynski property.

Council Member Greene, in her review of the draft signage that was given to Council in their meeting packet, felt that placement of the signs has not been discussed at the Design Committee level. Slown agreed that placement is part of the project and will be addressed. Council Member Nowak asked who has the final say, to which Slown said that it would be a joint Council and CDA effort to arrive at an amicable decision.

- **HUNT Lawsuit:** Peter Worden, the City's attorney, has notified us that the case against both the City and the Police Chief has been dismissed.
- **Financial Statements:** Slown provided a brief overview of the financial statements that were included in the Council packets for the November 3rd meeting. He explained why some of the funds may have reached the 100% level of expense within the first six months of the budget year, but there are no particular items that are out of line for this time of year.

COMMISSION AND BOARD REPORTS:

The minutes from the **September 10th Housing Commission Meetings** and the minutes from the **November 11th CDA Meeting** were included in the Council packets for review.

LIAISONS: No reports.

MAYOR:

Mayor Hall reported that legislation is in the process of being drafted and hopefully introduced and passed in the State Legislature to make the refunding of the marina bonds possible. He reminded everyone of the 51st Anniversary of the Bradley sinking on November 18th, and also wished all a Happy Thanksgiving and reminded everyone to attend the "Light up the City" event on Wednesday, November 25th.

Council Member Greene commented on the CDA minutes whereby it states that the attorney is asked to contact the Federated Properties legal counsel. She has questions on why certain actions were necessary when the developer has not honored the agreement. City Mgr. Slown, in the absence of the City Attorney, explained the situation as it stands currently. This generated a brief discussion on the Lakeview property and future plans to deal with this plan. Council Member Nowak added his thoughts on the length of time this property has been an issue.

RESOLUTION NO. 2009-126

A motion was made by Council Member Nowak, seconded by Council Member Greene, to direct the City Attorney to prepare a report for the December 1, 2009 regular Council meeting on the status of the Lakeview Property Project and if necessary, to schedule an executive session at this same meeting for discussion purposes.

ROLL CALL: Ayes – All, the motion carried.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

FY2008-2009 AUDIT PRESENTATION

Dave Gwizdala of Quast, Janke and Company, P.C. was present and addressed Council on the recently completed audit. He commented that the Council is under great pressure to make some tough decisions in these hard economic times. Gwizdala explained that there was a required communication directly to Council, which is not part of the audit document, which he will briefly review. The audit is an unqualified opinion meaning the financial statements are prepared fairly. The information being provided to Council throughout the fiscal year is accurate, there are no surprises or nothing is wrongly classified. Bookkeeper Judy Darga was complimented on her work and accounting knowledge that keeps the financials in order. Gwizdala asked Council to read the management analysis prepared by the City Manager. He then referred Council to various pages in the audit document noting the fund balances and cash balances. The Major Street Fund has a high fund balance of \$332,000 and is a concern of the auditor. The money is restricted to eligible expenses for the street fund. The City should consider spending about \$8,500 on non-motorized expenses in the current fiscal year. It was also suggested that some of the fringe benefits currently assigned to a line item within the General Fund be allocated to various departments within the fund, i.e., police, clerk/treasurer, public works, to obtain a true cost in some of the funds. The current practice is not wrong, but he offered the suggestion for possible future use to determine true costs. The CDBG liability of \$200,000 is still sitting out there and if this is not forgiven, payments will be required in the very near future and this payment has not been budgeted.

Council Member Nowak commented on the State Revenue Sharing cuts, which affects the City's financial picture. Services will certainly be affected as there is no income to replace the loss of the revenue sharing dollars. Council Member Sobeck asked about allocating fringe benefits to the various departments and is this what is done in most municipalities. Gwizdala responded that the majority of small municipalities still use the

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one line item, but are beginning to move in the direction of charging the departments accordingly for fringe benefits. Another question was on the recognition of the funding liability of retirement benefits and when this will be required. An actuarial will be necessary to put this into effect.

RESOLUTION NO. 2009-127

A motion was made by Council Member Nowak, seconded by Council Member Sobeck, that the City's Fiscal Year 2008-2009 audited financial statements be accepted as presented and that a copy of the audit document be kept on file in the office of the City Clerk/Treasurer.

ROLL CALL: Ayes – All, the motion carried.

PUBLIC HEARING – COMPLETED VSCI PROJECTS

A requirement of the VSCI grant is to hold a public hearing before closing out the projects. Both the Senior Center Parking Lot Project and the Erie Street Water Main Project are now completed. The notice of the public hearing was advertised as required.

Mayor Hall declared the public hearing open at 7:55 p.m. There were no comments from those attending the meeting and the public hearing was declared closed at 7:55:30 p.m. No further action is necessary from Council.

SECOND READING & ADOPTION: ORDINANCE NO. 2009-07 WATER WELLS

Mayor Hall addressed the agenda item and explained that Ordinance No. 2009-07 was introduced for first reading and published as required by Charter. He noted that he has received no comments or questions about the contents of the ordinance.

A motion was made by Council Member Sobeck, seconded by Council Member Greene, that the following Ordinance No. 2009-07, which was introduced for first reading at the October 20, 2009 Council meeting, be adopted and that proper publication be made within the 15 days required from the date hereof in the *Presque Isle County Advance*. Said ordinance to become effective upon publication on November 26, 2009.

ORDINANCE NO. 2009-07

AN ORDINANCE TO AMEND CHAPTER 29 UTILITIES ARTICLE II. CITY WATER UTILITY OF THE ROGERS CITY CODE OF ORDINANCES TO PROHIBIT PRIVATE WATER WELLS WITHIN THE CITY OF ROGERS CITY, REQUIRE CONNECTION TO THE MUNICIPAL WATER SYSTEM WHEN SERVICE IS WITHIN 200 FEET, PROVIDE EXCEPTIONS FOR CURRENT WATER WELLS AND PROVIDE PENALTIES FOR VIOLATIONS.

THE CITY OF ROGERS CITY ORDAINS:

1. Article II. City Water Utility Section 29-42 shall be added to read as follows:

Sections 29-42. Private Water Wells

(1) Definitions. The following definitions shall apply in the interpretation of this Section:

- (a) Construction site dewatering means temporary removal of ground water from an excavating site.
- (b) Owner means the person holding the legal or equitable title to real property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation directly or indirectly in control of a building, structure or real property or his duly authorized agent.
- (c) Person means any individual, partnership, corporation, limited liability company, association, organization or other legal entity.
- (d) City means the City of Rogers City.
- (e) City water service means the water supplied by the City of Rogers City.
- (f) Water well means a hole drilled or bored into the earth for the purpose of removing water through mechanical or non-mechanical means.

(2) Private Water Well Prohibited. Except as provided in Subsection (3), no person shall install, construct, develop, maintain or use a water well within the City.

(3) Permitted Water Wells. The following water wells are permitted within the City under the terms and conditions specified:

- (a) A water well used solely for the purpose of construction site dewatering or for conducting response activities, including sampling or treatment of the groundwater.
- (b) A water well lawfully in existence at the time of the enactment of this ordinance, provided, however, the size of such water well shall not be expanded.
- (c) A water well for new development when a water main is not located within 200 feet of the property, provided that the water from the water well is tested annually by a Michigan Certified Drinking Water Laboratory and approved for human consumption by the Michigan Department of Environmental Quality, Water Bureau, or the county health department.
- (d) A water well for new development specifically for agricultural watering purposes (i.e., lawns, gardens) when approved for that purpose by the District 4 Health Department.

(4) Connection to City Water Service Required. Except for existing water wells permitted under Subsection (3)(b) above, the owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a water main within 200 feet of the property is hereby required at his or her expense to install suitable plumbing facilities therein, in accordance with the plumbing codes then in effect and enforced within the City and to connect such facilities directly with the City water service in accordance with the requirements of the City of Rogers City Code of Ordinances. For water wells permitted under Subsection (3)(c) above, the owner shall connect to the City water service within ninety days after receiving a notice to connect from the City.

(5) Violations. Any person who violates any provision of this Section shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-

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600-9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Section is violated shall be considered a separate violation.

- (6) Enforcement Officials. The City Police are authorized to issue municipal civil infraction citations directing alleged violators of this Section to appear in court.
- (7) Nuisance Per Se. A violation of this Section is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.
- (8) Civil Remedies. In addition to enforcing this Section through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Circuit Courts to abate or eliminate the nuisance per se or any other violation of this Section.
- (9) Severability. If any provision of this Section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portion or application of this Section which can be given effect without the invalid portion or application.

2. Effective Date. This ordinance shall be effective upon publication.

ROLL CALL: Ayes – Darga, Greene, Sobeck, and Hall.

Nays – Nowak. The motion carried.

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CDBG ICE GRANT AWARD

The City was notified of the award of a \$750,000 grant for the Wastewater Treatment Plant Project from the CDBG Infrastructure Capacity Enhancement Program. Matching funds for this grant will come from the USDA funding.

RESOLUTION NO. 2009-128

The following resolution was offered by Council Member Sobeck, seconded by Council Member Nowak:

BE IT RESOLVED, that the City of Rogers City does hereby accept the award of \$750,000 from the Michigan CDBG Infrastructure Capacity Enhancement Program, and

BE IT FURTHER RESOLVED, that the City Manager be authorized to sign the grant agreement on behalf of the City.

ROLL CALL: Ayes – All, the motion carried.

OTHER BUSINESS: None.

CLOSED SESSION: None.

ADJOURNMENT:

With nothing further to come before Council, Mayor Hall declared the meeting adjourned at 7:58 p.m.

BEACH HALL, MAYOR

THERESA A. HEINZEL, CITY CLERK/
TREASURER