

**REGULAR MEETING OF THE MAYOR AND ALDERMAN OF
THE CITY OF ROCK FALLS
March 15, 2005**

The regular meeting of the Mayor and Alderman of the City of Rock Falls was called to order at the hour of 6:30 p.m., March 15, 2005 in Rock Falls, Illinois by Mayor Edward M. Mulvaney.

City Clerk, William B. Wescott called the roll call, present were Mayor Mulvaney, Alderman Stachowiak, Searing Kuhlemier, Straub, Hand and Blanton. Alderman Charnas and Folsom being absent.

***** It is with much sadness that the Council learned of the death of Alderman Lee Folsom's' Brother Gene. The Council extends its sympathy, thoughts and prayers to the Folsom Family during this there time of loss. *****

Consent Agenda:

Motion by Alderman Hand and seconded by Alderman Stachowiak to accept the Consent agenda items 1-8 with the addition of item 9 as presented.

1. Approval of Minutes from Regular Session of 03.01.05
2. Approval of Bills as printed
3. Amendment to ordinance No. 90-1565 – Establishing an Enterprise Zone within the Illinois Counties of Whiteside and Carroll
4. Approval of Resolution adopting the Emergency Aide Program established by the Illinois Municipal Utilities Association
5. Approval of Proclamation – proclaiming March 2005 as American Red Cross Month in the City of Rock Falls
6. Approval of Proclamation – proclaiming April 2005 as Rock Falls Child Abuse Prevention and Awareness Month
7. Grant permission for the Knights of Columbus to hold a bucket brigade on 09.17.05
8. Grant permission for the Rock Falls Rotary Club to hold a bucket brigade on 05.07.05
9. Grant Raffle license to St. Andrews Catholic Schools for (6 month period)

Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried.**

Audience Requests:

Ms. Allison Neal, Attorney at Law representing Mr. Ron Halgren of 812 Avenue A, Rock Falls, Illinois addressed the Council appealing the Notice of Property Condemnation as determined by the Rock Falls Building Inspector. In her remarks, Ms. Neil identified the following as grounds for the appeal on behalf of her client:

1. Pursuant to the BOCA National Property Maintenance Code, Section PM 107.2 notices for condemnation procedures must take the form prescribed in the section. The notice, among other things, must allow an owner of such property a “reasonable time” to make repairs and improvements necessary to bring the structure into compliance with the provisions of the code. In the letter that was forwarded to Mr. Halgren, dated January 7, 2005, Mr. Halgren was in fact given 30 days to correct the described violations, including major structural defects with the dwelling. Mr. Halgren’s position is that 30 days is not a reasonable time to correct major structural problems with a dwelling.
2. Pursuant to Section PM 108.3 and 108.4, upon failure of an owner to comply with the notice provisions within the time frame given, the code official shall placard the premises in question. In this case, Ms. Neil pointed out to the Council that Mr. Halgren’s property was placarded on January 25, 2005, a date prior to the 30 day date given to Mr. Halgren in our letter dated to him on January 7, 2005.
3. Pursuant to BOCA provision 107.2 notice regarding Utility Service was not cited in the letter of notification of January 7, 2005.

Ms. Neil in her remarks made it point to have the City understand that her client is not challenging the identified structural damages but instead, appeals on perceived procedural notice defects. She spoke to those items identified above as 1-3. She introduced the totality of circumstances test as an argument in this case, specifically:

- a. Time of year/inclement weather
- b. The defects complained about
- c. Abilities of home-owner to facilitate repairs

She went on to cite (2) two persuasive authorities’ on which she basis her clients appeal:

- a. RF Building Code. – Sec. 5-269 – 60 days from date of notice to remedy defects.
- b. 2nd District case – Village of Lake Villa v. Stokovich – recognizes fundamental due process rights of property owner. Prior to City action to demolish home, a showing of sufficient notice an opportunity to repair the dilapidated property is required.

Ms. Neil told the Council, that she is working very closely with a variety of agencies attempting to secure services and funding to facilitate the repairs necessary to bring the property to a compliance level. She reiterated once again, that her client does not argue the points presented in regards to the condition of the property in question, but again for the record states the argument of procedural/notice defects as the basis of their appeal in this matter.

Following the remarks by Ms. Neil, Mr. Tom Sanders, Attorney in chair for the City of Rock Falls responded with a simple rebuttal of the totality of circumstances test in Mr. Halgren’s argument. To which, due to the time frames of the current issues and past dealings, more than ample time has existed for corrective actions to have been garnered by Mr. Halgren. But in fact, until such time of the service of condemnation, no responses had been brought forward in any type of defense.

Alderman Kuhlemier and Hand offered information that the Council has off and on since as early as 1997 being dealing with issues concerning this property and has not seen any efforts by the owner to correct any defects at the residence.

Following discussions, Mayor Mulvaney requested a motion to deny the appeal to reverse the decision of the City Building Inspector an uphold the Condemnation notice which has been ordered against the property owned by Mr. Ron Halgren at 812 Avenue A, Rock Falls, Illinois. Motion by Alderman Kuhlemier and seconded by Alderman Blanton. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, Motion carried.

Mrs. Jan Valdez addressed the Council concerning the property issues at 812 Avenue A, on behalf of her Mother (Mrs. Gerlach) who has resided at 814 Avenue A, Rock Falls, Illinois for many years. She verbalized about the general appearance of the property, health hazards which have been created by others in the area as a result of Mr. Halgren's lack of cleanliness on his property. She questioned the sanitary conditions with the residence and how that could affect the neighbors due to the potential draw of animals to the area. She thanked the Council for the opportunity to speak on the subject.

Department Head Reports:

Building Department – Mr. Whiting advised the Council on the following (3) subjects:

1. (5) Five new homes are currently under construction, as well as, the Crown Hill Estates project on the south edge of town.
2. Out Door World at 1609 3rd Avenue, Rock Falls, Illinois continues to deteriorate. The owners have been contacted, but have not responded as of yet.
3. He has been working with the Band Shell Committee to identify needed updates at the location.

Electric Director – Mr. Jakubczak advised the council of the upcoming Telecommunications Committee meeting and requested authorization from the Council to renew the maintenance fee for hardware, software and support for the SCADA System at a cost of \$12,436.00. **Motion** by Alderman Blanton and seconded by Alderman Searing to approve the renewal of the maintenance agreement. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried**.

Wastewater Superintendent – Mr. Cox informed the Council of problems with the Fairview Pump Station, and the needs to either replace or rebuild the muffin monster exchange. To rebuild the unit would cost \$6,999 plus shipping \$300. This decision would still leave the unit, below current technology standards. At this time it would be better to replace the unit, as well as, the Uni-body housing. This would bring the price to \$9,249.00 plus freight of \$300.00. **Motion** by Alderman Blanton and seconded by Alderman Hand to authorize the expenditure of up to \$9,800 for this purchase from Peterson and Matz, Inc., which is a sole provider of this type of rebuild unit due to age of the station. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried**.

Information and Updates:

City Clerk Wescott addressed the Council concerning the previously approved 2004-05 Council meeting dates. Several of the dates listed on the prior approved document were inaccurate. He presented a new schedule of meeting dates through the end of the 2005 which shall be posted for public accessibility. **Motion** to approve the correct calendar was made by Alderman Searing and seconded by Alderman Kuhlemier. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton. Vote 6 ayes, **motion carried**.

City Clerk Wescott informed the Council that due to changes made by the General Assembly, while in overtime session in July 04, an Election Bill (HB 629, now PA 093-0847) passed changing the dates that local government and school district officials are sworn into their posts. With the new provisional voting laws in place under the Help America Vote Act, it became necessary to allow more time for election officials to certify results. Rock Falls Municipal Code, Section 2-2. Inauguration of elected officers; calls for the term of any elected officer of the City to commence at the first regular or special meeting of the corporate authorities during the month of April following the proclamation of the results of the regular municipal election. However, should no regular meeting or special meeting be called, the new officers shall subscribe to the oath at the first meeting of May. As of this time, it is unknown if this will effect us or not. We will have to just wait and see, however, it would appear that the new officials may not be in place until 3 May.

Revisions to the proposed Liquor Ordinance were presented prior to approval. Sec. 8-256. Definitions, under Grocery Store change (2) to read as follows: which maintains total grocery retail display and sales floor area of at least ten thousand (10,000) square feet; Sec. 8-291. Number limited. To read as follows (b.) (c.) should have no limits. **Motion** by Alderman Hand and seconded by Alderman Blanton to approve changes and adopt Ordinance with changes. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried.**

Agreement for the sharing of litigation expenses in the PrimeCo maintenance fee litigation case was presented for consideration. The agreement would have Rock Falls share the cost of litigation with the other municipalities and council of Government. The cost of litigation is being suggested at \$0.25 per capita based on the last census data. The cost for the City of Rock Falls would be \$2,398.50. **Motion** by Alderman Blanton and seconded by Alderman Hand to approve the City of Rock Falls entering into the agreement at the projected cost. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried.**

Administrators Report:

Mr. Downey advised the Council members of the upcoming Illinois Tax Increment Association 2005 Spring Conference & Workshops to be held on April 21-22 at Effingham, Illinois. A brochure was dispensed and anyone that is interested in attending should contact the City Administrator.

Mr. Downey also briefed the Council members of the request from Sterling for us to participate in the Sewer Plant Engineering Study to be completed by Strand & Associates. The report by Willett Hoffman & Associates had some information that was felt to be incomplete by Sterling, thus prompting a second study. The cost to the City of Rock Falls and the City Sterling would; be \$10,000 each. The Council members agreed to participate in the study with certain conditions being applied: (1) following the completion of the study, copies of the reports would be released to both the City of Sterling and Rock Falls at the same time; (2) An ad hoc committee would be formulated to review both studies, and develop a joint summary and direction for future direction of this project. **A motion** by Alderman Blanton and seconded by Alderman Searing to participate with the above stipulations. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried.**

Community Affairs:

Mr. Dave Devries, representing the Rock Falls Chamber of Commerce informed the Council that there would be a press release issued on March 18th at 2:30 pm announcing the new Director.

Council Committee Reports/Member Requests:

Public Utilities – Chairman Blanton announced a committee meeting for April 4th at 6:00 p.m. in the Council Chambers.

Finance/Insurance – Chairman Kuhlemier announced a committee meeting for March 31st at 6:30 p.m. in the Council Chambers. The primary focus of the meeting will be to start the budget process for 2005-06. All Alderman and Department Heads are encouraged to attend and participate in the process.

Mr. Kuhlemier reported to the Council on (2) two issues that were discussed and require action from the March 10th Finance/Health Insurance meeting: First, a recommendation to refer an increase in the current dumpster permit fee from \$1.00 to \$5.00, to insure that the cost for the issuance of the permit is covered to the Ordinance Committee for considerations and action. **Motion** by Alderman Kuhlemier and seconded by Alderman Hand to refer the recommendation. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried**.

Mr. Kuhlemier, asked Mr. Downey to address the Council on a request from the Blackhawk Hills RC&D in regards to an Economic Development Administration (EDA) federal grant application by Northern Illinois University (NIU) Center for Governmental Studies (CGS). Mr. Downey explained that NIU is seeking federal “University Center” program status through EDA. As part of their proposal, NIU will be including the Blackhawk Hills EDD boundaries as their specific targeted project area for an initial (3) three year time frame.

This will allow NIU to dedicate staff and technical assistance to implementing strategies to overcome economic distress within our region. These implementation strategies will be defined by our Regional Economic Distress Study, which will be completed this June. NIU is offer to commit funds of approximately \$80,000.00, which would be matched in a dollar-for-dollar by federal grant money over the (3) three-year period. Blackhawk Hills EDD is considering adding to NIU’s investments to help increase the total pool of funds available. We are being asked as are other organizations and municipalities for (2) two considerations. First, a letter of support to the project and secondly, a (3) three-year financial commitment, to with the funds would be added to the commitment of \$20,000.00 being made by the Blackhawk Hills EDD. There are varying levels of commitment, the Finance Committee is recommending a partner level contribution of \$500.00 annually for 3 years. These funds would come from our Utilities and be shared. A **motion** was made by Alderman Blanton and seconded by Alderman Straub to authorize the \$500.00 annually for a (3) three-year period. Upon roll call, Alderman Stachowiak, Searing, Straub, Hand and Blanton voted aye. Alderman Kuhlemier abstained. Vote 5 ayes, **motion carried**.

Adjournment:

Motion to adjourn by Alderman Hand and seconded by Alderman Searing. Upon roll call, Alderman Stachowiak, Searing, Kuhlemier, Straub, Hand and Blanton voted aye. Vote 6 ayes, **motion carried**.

William B. Wescott, City Clerk

