

**CITY OF PLATTE  
CITY COUNCIL PROCEEDINGS  
REGULAR MEETING  
November 17, 2008**

**Mayor Gustad called the meeting to order at Platte City Hall at 7:30 p.m. Those present for Roll Call were: Arnold Dalldorf, Joel Foxley, Rick Gustad, Rich Hoppe, Gary Iedema, Jerry Overweg, and Todd Spoelstra.** Others present were: Steve Christensen, Kevin Kuiper, Ralph Nachtigal, Ken Overweg, John W. Stekly, Karen Stekly, Nicole Westerhuis.

**AGENDA.** The following changes were made to the agenda: Bldg Permits Add: Donna Travis – Remove Front Porch; Business Add: Set Public Hearing – Overweg Variance Request.

**MINUTES.** The November 3 regular meeting minutes were reviewed. Hoppe moved and Dalldorf seconded to approve the minutes as written. Motion passed on voice vote.

**REPORTS.**

**Councilmember Dalldorf.** Noticed the former Harding house is already all torn down. Kuiper stated that they hope to haul it away this week.

**Mayor & Remaining Councilmembers.** No report.

**Finance Officer.** Westerhuis reported the following. 1) Received notice from the FAA that the airport project is officially closed out. 2) Received notification from the SD DOT that the request to remove a portion of curb on Hwy 44 between Wisconsin and Wyoming Avenues is denied. An appeal will be sent to the Transportation Commission.

**Police Department.** No report.

**Public Works.** Kuiper reported the following. 1) Completed the second disinfection by-product sampling. 2) Plan to discharge lagoons soon. 3) Will be doing second round of lead testing. 4) Michael's Fence installed the fence around the tennis court. One adjustment will be made. 5) The former Harding house is torn down. This project was done before the other two Spruce Up applicants because the school wants to use the parking lot this winter, and the other two are not as time sensitive. 6) Paulson Sheet Metal did the bi-annual maintenance on the rooftop units. 7) After reviewing the job applications, the committee chose who to interview, and plan to complete those interviews within the next two weeks.

**PUBLIC FORUM.** No requests.

**BUILDING PERMITS.** Donna Travis applied for a permit to remove front porch. Spoelstra moved and Iedema seconded approving Travis' permit to remove her front porch. Motion passed on voice vote.

**SET PUBLIC HEARING – LIQUOR & MALT BEVERAGE LICENSE TRANSFERS.** Foxley moved and Hoppe seconded setting Monday, December 1 at 8 p.m. at City Hall as the date, time and place for a public hearing for the transfer of ownership of liquor and malt beverage licenses held by 44 Road Stop. Motion passed on voice vote.

**SET PUBLIC HEARING – LIQUOR LICENSE APPLICATIONS.** Dalldorf moved and Hoppe seconded setting Monday, December 1, 2008 at 8:05 p.m. at City Hall as the date, time and place for

**a public hearing to gather comment on the applications for liquor license renewals. Motion passed on voice vote.**

**TEMPORARY LIQUOR LICENSE – FERGIE’S PUB.** Dalldorf moved and Foxley seconded to approve a temporary liquor license for Fergie’s Pub & Barrister for the hospital’s Christmas party to be held December 5 at the Community Center. Motion passed on voice vote.

**CITY ORDINANCES – KAREN STEKLY.** Karen Stekly passed around pictures of the Ken Overweg building site and surrounding property, and distributed and read aloud the following letter.

*November 17, 2008*

*Dear Members of the Board of Adjustment,  
Platte City Council, Mayor Gustad, and  
Finance Officer Westerhuis:*

*We are writing with respect to building permit number 119 granted to Ken Overweg on November 3, 2008.*

*We both own property adjacent to the Overweg property in the North part of the City of Platte. When you issued the above building permit, it indicated a requirement that the building to be constructed be 19’6” from the West property line. For your information, our property is along the West property line of the Overweg property. Upon inspection of the building in progress on the Overweg property, it is closer than 19’6” from our property line. Karen has contacted Ken and Karla Overweg regarding concerns that the building which is in progress is being built too close to the lot line. We have not observed any corrective action being taken. Additionally, Kevin Kuipers of your maintenance department has also provided assistance by locating survey pins. It is Karen’s understanding that Kevin Kuipers also advised Ken Overweg that the building is too close to the lot line. In light of the foregoing, it is our request that you advise the Overwegs in writing that they not build closer than 19’6” from our lot line and that you provide us with a copy of that writing. It is also our request that in the event Overweg builds closer than 19’6” from our lot line, that you take legal action against the Overwegs.*

*We also want you to be aware that we have concerns about how the Planning Commission and Board of Adjustment functioned in this matter. The concerns include but are not limited to the following:*

- 1. Under Section 1505 of the Planning Commission rules, the Planning Commission shall be an uneven number with at least one member being a City Council Member. Because Ken Sly left the Planning Commission earlier this year and prior to the Overweg building permit application being made, only 2 members are on the Planning Commission, namely Paul Turnbull and Councilman Gary Iedema. At least one new member needs to be appointed to the Planning Commission to keep it an uneven number of members. Because your Planning Commission did not have the correct number of members, the building permit granted may not be valid.*
- 2. Sections 1705 and 1711 (both of which cite to Section 1709 Sections 3 through 5) address notice requirements. According to these sections of your zoning ordinance, copies of which are attached, to hold a hearing on a variance, you must take the following steps:*
  - 1. Notice of public hearing shall be given at least ten (10) days in advance by publication in a legal newspaper of the municipality;*
  - 2. Written notice of the public hearing shall be sent to the applicant and all owners of real property lying within one hundred and fifty (150) feet of the property. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date; and*

3. A notification sign shall be posted on the property where the action is pending at least seven (7) days prior to the hearing date. The code section explains how the signage is to be posted.

*In this particular case, neither of us received any written notice about the Overweg building permit application and hearing. Karen has also contacted Myron and Patty DeGroot who have property directly East of the Overweg property. They informed they did not receive any written notice of the Overweg building permit application and hearing. Karen has also contacted Dale Severson who has property directly South of the Overweg property. He informed he did not receive any written notice of the Overweg building permit application and hearing.*

*With respect to the notice requirements of the zoning ordinance, there are several deficiencies in this matter. In looking at the public notice published, it appears to be ineffective as it does not list the legal description or street address of the Overweg property. It also does not list the name of the correct owner as Ken Overweg is not shown as the owner of record in the Charles Mix County Register of Deeds office. We also did not receive any written notice as required by the zoning ordinance and neither did the neighbors. We are also not aware of any sign being placed upon the property advising of the hearing date. Thus it is our position that the notice requirements of the City of Platte Zoning Ordinance were not followed in granting the building permit. We also believe that the building permit application and site plan do not comply with the requirements listed in Section 1513 of the City of Platte Zoning Ordinance which addresses Applications for Building Permits, Conditional Uses, and Variances, a copy of which is attached.*

*In summary, at the present time, it is our request that you take immediate action to enforce the setback requirements shown on the Overweg building permit. In the event that immediate action is not taken, we may take legal action against you to address the building permit that was granted. We are also requesting that this letter and its attachments be entered into the minutes of your November 17, 2008, meeting.*

*Sincerely,  
/s/ Karen Stekly  
/s/ John W. Stekly*

The attachments referred to in the above letter are sections of the Platte Zoning Ordinance, and are available at City Hall during business hours, or also on the Internet at [www.plattesd.org](http://www.plattesd.org), under Government, Ordinance Book. No official action taken.

**PUBLIC HEARING – UTILITY RATE INCREASE.** Mayor Gustad opened the public hearing for comment at 8:00 p.m. Westerhuis stated that Randall Community Water District increased the rate at which the city purchases water by \$0.10 per thousand gallons in July of this year. The last rate increase the city implemented was in 2001. Several examples of different rates and how it affects different usages were distributed and discussed. The proposal does not include changing the sewer rates. All agreed that a \$0.40 per thousand gallon increase would be the best option. All agreed that in the future, rates should be discussed at a minimum of every other year. **Mayor Gustad closed the public hearing at 8:07 p.m.**

**RESOLUTION #111708-1 – UTILITY RATES.** Westerhuis presented the following resolution.  
**RESOLUTION NO. 111708-1**

WHEREAS, the City received an increase in the per gallon charge paid to Randall Community Water District for purchase of water each month, and

WHEREAS, the City Council finds that the water department needs additional funds to sustain its own maintenance and operation, and

WHEREAS, the last water rate increase implemented by the City Council was in 2001, and

WHEREAS, the City Council proposes raising water rates as stated below, and

WHEREAS, the City Council held a public hearing on the proposed rate increases, where no public comment was offered,

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Platte that following rate structures and rules shall become effective with water and sewer bills issued at the beginning of January for payment by January 15, 2009.

Residential Water Rate	\$13.00/month base charge \$0.004075/gallon for first 2,000 gallons \$0.003550/gallon for remaining gallons
Water Only Inside City	\$13.00/month base charge \$0.004075/gallon for first 2,000 gallons \$0.003550/gallon for remaining gallons
Commercial Water Rate	\$13.00/month base charge \$0.004075/gallon for first 2,000 gallons \$0.003550/gallon for next 8,000 gallons \$0.003025/gallon for remaining gallons
Multiple Use Dwellings	\$13.00/month base charge \$0.005125/gallon for first 2,000 gallons \$0.004600/gallon for next 3,000 gallons \$0.004075/gallon for next 5,000 gallons \$0.003865/gallon for next 4,000 gallons \$0.003760/gallon for next 6,000 gallons \$0.003550/gallon for next 5,000 gallons \$0.002237/gallon for remaining gallons
Water Only No Minimum	\$0.004075/gallon for first 2,000 gallons \$0.003550/gallon for remaining gallons
Water Only Outside City	\$26.50/month base charge \$0.004075/gallon for first 2,000 gallons \$0.003550/gallon for next 3,000 gallons \$0.003025/gallon for next 5,000 gallons \$0.002815/gallon for next 4,000 gallons \$0.002710/gallon for next 6,000 gallons \$0.002500/gallon for next 5,000 gallons \$0.002237/gallon for remaining gallons

Dated this 17<sup>th</sup> day of November, 2008.

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Rick Gustad  
Mayor

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Nicole Westerhuis  
City Finance Officer

**Foxley moved and Hoppe seconded approving Resolution #111708-1. Motion passed on roll call vote 6 to 0.**

**SET PUBLIC HEARING – OVERWEG VARIANCE REQUEST.** Ken Overweg requested a moment to address the council. He stated that when he submitted his original building permit, he was unsure of the exact measurements to his property lines. He said he is now aware that his building is too close to the property line on the west, has submitted a revised site plan and building permit application, and will not continue work on the site until the issue is resolved. **Iedema moved and Overweg seconded setting Monday, December 1 at 8:10 p.m. at City Hall as the date, time and place for a public hearing to gather comment on an application for variance from Ken Overweg. Motion passed on voice vote.**

**COUNCIL COMMENTS.** There being no further business before the City Council, **Overweg moved and Foxley seconded to adjourn the meeting at 8:12 p.m. Motion passed on voice vote.**

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Rick Gustad  
Mayor of Platte

By: \_\_\_\_\_  
Nicole Westerhuis  
City Finance Officer