

SPECIAL COUNCIL MEETING  
CITY OF CROSSLAKE  
FRIDAY, JANUARY 17, 2003  
9:00 A.M. - CITY HALL

Pursuant to due notice and call, the Council for the City of Crosslake met in the Council Chambers of City Hall on Friday, January 17, 2003 at 9:00 A.M. The following Councilmembers were present: Mayor Darrell Swanson, Dean Eggena, Chuck Miller, Dick Phillips and Irene Schultz. Also present was City Administrator Tom Swenson, City Attorney Paul Sandelin, City Engineer Dave Reese, Clerk/Treasurer Darlene Roach and Lake Country Echo Reporter Betty Ryan. There were approximately six individuals in the audience.

Mayor Swanson called the special meeting to order at 9:00 A.M. and stated that the purpose of the meeting was to authorize WSN to proceed with construction engineering and authorization of the Notice to Proceed on the Wastewater Treatment Plant and Wastewater Collection System Contracts and to review a requirement in the General Implementation Plan for public restrooms in Crosswoods Development. (It was noted at this time that the developer withdrew this request from the agenda.) The meeting was then turned over to City Attorney Paul Sandelin and City Engineer Dave Reese for review of the construction contract agreements.

City Engineer Dave Reese stated that WSN reviewed the contracts from the successful bidders for completeness and then forwarded the contracts to the City Attorney for his review. City Attorney Paul Sandelin stated that he reviewed Contract 1 for the Treatment Plant and Contract 2 for the Collection System and both contracts are in order with the exception of some additional insurance requirements that the City Insurance Agent is requesting from the contractors. These insurance requirement considerations were detailed in a letter to the City dated January 16, 2003. Except for these minor items, City Attorney Sandelin stated that the documents are in order and the Council could authorize execution of the documents to issue the Notice to Proceed subject to receipt of the additional insurance documents. MOTION 01S1-01-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO PROCEED WITH APPROVAL OF THE WASTEWATER TREATMENT PLANT AND WASTEWATER COLLECTION SYSTEM CONTRACTS AND ISSUE THE NOTICE TO PROCEED FOR EACH CONTRACT CONTINGENT ON RECEIPT OF INSURANCE AND BONDING REQUIREMENTS BY THE CONTRACTORS AS IDENTIFIED IN A LETTER FROM THE CITY ATTORNEY. Councilmember Dean Eggena asked how the City was paying for the sewer project. A handout was prepared by Councilmember Eggena which detailed his understanding of the cost for financing the project. He stated that after all of the connection fees have been paid and the City utilizes the \$2.5M from the Telephone Company, a balance of \$2,723,000 will need to be financed. He asked if the City was intending to finance the balance under Chapter 444? City Attorney Sandelin replied that was correct. Councilmember Eggena stated from what he reads in Subdivision 2 under financing, it clearly indicates that real estate tax revenue should only be used to pay general or special obligations when the other revenues are insufficient to meet the obligations. So then he asked what revenues would be used to pay the \$2.7 M if we can't use real estate revenue. Mayor Swanson asked City Engineer Dave Reese to

review the numbers to determine if these were accurate. City Engineer Dave Reese stated that the numbers referenced by Councilmember Eggena do appear to be accurate. Mayor Swanson than allowed for a discussion on how the law works related to financing. Councilmember Eggena asked what kind of revenue the City would be using to repay the \$2,700,000 if Chapter 444 states we can't use real estate taxes. City Administrator Swenson presented the breakdown the City has been proceeding under for payment. The cost is estimated to be approximately \$6.2 million. Of this amount, \$2.5 million is coming from the stock sale at the Telephone Company. The City would authorize a city-wide bond issue for \$3.5 million of which \$1,000,000 would be repaid from collection fees. Councilmember Eggena asked how the bond issue would be repaid if real estate taxes could not be used. City Attorney Sandelin stated that the City is relying on the opinion of the bond counsel and that is their recommendation and opinion. Councilmember Eggena stated that before the Council votes to spend the money, we need to find out how we're going to pay for the project without breaking State law. City Attorney Sandelin stated that Chapter 115.46 gives the City the authorization to issue bonds. Councilmember Eggena stated that his understanding of Chapter 115 is that the law only allows tax revenue to be used when the MPCA requires the City to clean up a problem or order a process. Councilmember Eggena stated before a general levy can be imposed on the City the Council needs to use Chapter 429 and follows Chapter 429 rules. Mayor Swanson asked City Attorney Sandelin if he felt the City had a definitive agreement from the bond counsel or whether we should have something further. City Attorney Sandelin stated that the City has received approval from the bond counsel, but we could ask them to supplement what they have given the City in order to answer Councilmember Eggena's question. City Attorney Sandelin stated that the City has been working on the financing part of the project for over two years and the City is following the opinion of the bond counsel. City Attorney Sandelin stated that there may be a difference of opinion on what Chapters in the law the City can bond under, but we can certainly get an answer from the bond counsel. Mayor Swanson asked City Attorney Sandelin if he would recommend that the City move forward but leave it subject to getting an explanation from the bond Counsel. Mayor Swanson asked if Councilmember Eggena would put his question in writing to the Council. Councilmember Eggena agreed that he would do this, but this leads him to another question that if we need to follow Chapter 429, then there is a portion of the law where it clearly states there is a requirement for a 4/5ths vote under certain conditions. City Administrator Swenson stated the City has never discussed financing this project under Chapter 429. Improvement hearings have never been held to assess the 20% and connection fees are not considered assessments but are considered connection charges. Councilmember Eggena stated that the City does not have to put a general assessment on the City to pay the \$2.7 million back, but could use Telephone Company revenues to pay the bond payment which eliminates the need to use Chapter 429. Councilmember Schultz asked what the taxpayers would be gaining by this and Councilmember Eggena stated nothing would be gained it would just be a means of following the law by not using real estate taxes. City Attorney Paul Sandelin read a letter received from the bond counsel on November 21, 2002 which gives the City the authorization to bond for the sewer system. City Attorney Sandelin stated that Chapter 444 allows the City to finance the project through bonds and Mayor Swanson again asked that Councilmember Eggena put his questions in writing for follow-up with a written answer from our legal authorities. City Administrator Swenson asked what the timeline is to approve the contract. City Attorney

Sandelin stated that once you have signed the contract, the City has 30 days to issue your notice to proceed. City Engineer Dave Reese stated that there are other communities in the area that have financed projects using this method such as Lakeshore, Nisswa and East Gull Lake. Mayor Swanson asked how soon Councilmember Eggena could provide his question in writing and he stated his question as being "Can we use Real Estate Tax revenue to pay the bond issue without using Chapter 429? If we have to use Chapter 429 in order to use real estate taxes to pay the bond, then we need a 4/5ths vote of the Council. Councilmember Miller stated that if the answer comes back that we cannot use Chapter 444 then the vote taken today would be null and void. MOTION WAS AMENDED BY COUNCILMEMBER MILLER TO INCLUDE THE STATEMENT TO APPROVE THE CONTRACTS BASED ON A FAVORABLE OPINION FROM THE CITY'S BOND COUNSEL REGARDING THE CITY'S ABILITY TO LEVY FOR REPAYMENT OF THE BOND ISSUE. AMENDED MOTION WAS SECONDED BY IRENE SCHULTZ. Councilmember Phillips expressed his comments that when the sewer issue came up originally and was talked about, everyone thought it was blue sky thinking and that it was puff, puff and that it would never become a reality. Well, that didn't happen or we wouldn't be here today. But what is about to take place here today is going to have an irreversible, or non-reversible negative impact on this community that will forever change Crosslake. It's not addressing a single environmental issue today, not one. Neither the MPCA or the Whitefish Property Owners Association admit that we have a contamination issue in our lakes or in our ground water. With that in mind, then why are we doing this? To me it smells of money. It smells like special interest. If the City maintains the current Planning and Zoning regulations or statutes, we won't have any future problems as well as we don't have any today if we maintain what we have. We have done a good job of keeping above board with our approved systems that are not polluting, because I am against any type of pollution. With all of this said and done, so be it let us proceed. Mayor Swanson commented that in 1996 when the survey was done, there were some pollution problems found and this overall wastewater program is designed first of all to inspect all of the septic systems with the exception of those in Phase 1 because of the community sewer. It is a combination of the septic systems and that critical commercial corridor, putting in a community sewer. But we know there are more areas which will become part of an overall long-term wastewater strategy simply to protect the ground water and the surface water of our area. As far as the ground water, that's why it was determined by our experts to not put in a water system at the same time which is what many of our residents wanted us to do. The experts advised us that if we take care of our wastewater, the ground water will take care of itself. From day one it has always been an environmental issue. Councilmember Phillips stated that he respects the Mayor's opinion but disagrees that it is an environmental issue. Mayor Swanson stated that the population of Crosslake grew 67% between 1990 and the year 2000 and the projections between 2000 and 2010 and 2020 show an even higher percentage of growth so in his opinion it is really necessary to add a component of a community sewer. The easy thing to always say is "let's let the next generation do it". Resources were available a few years ago for loans and grants that are no longer available and now with the sale of the RCC stock, the opportunity became available to take advantage of \$2.5 million dollars and do something good with it for the community. Mayor Swanson stated that what Councilmember Eggena is doing today is good. We need to know that what we are doing is correct and we do rely on our experts to advise us. Councilmember Miller stated that in his fifteen years on the Council he is very pleased to see that we can respectfully

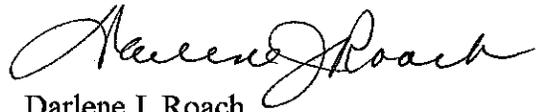
disagree. Councilmember Eggena stated that he feels everyone has the best intentions for the community and feels lucky to have found a nice community where people can get along. He also stated that we disagree on whether this central sewer system is a good idea, as for himself he does not think it is and feels that the septic systems are getting a bad rap. He stated that the general consensus throughout the country is that septic systems pollute and after ten years of study by the University of Minnesota we're finding out different things. Take the situation in the newspaper regarding the problem in East Gull Lake where they are doing illegal discharge every day. You do not have this with septic systems. Councilmember Eggena stated that he attended some MPCA meetings this fall and at these hearings he discovered that most of the treatment plants were installed in the 50's. Up until the late 60's many of these plants discharged waste directly into the lake and it was that point in time that cities started adding treatment plants with money from the government. It is these systems that are now failing and the cities don't have the funds to update the system. Now neither the state or the federal government has the funds either so now the only choice the MPCA has is to lower the standards due to the money crunch. Since we're starting the process today, what will happen in forty years. Will the property values change and will the money be available then, that's why I'm opposed to it. Crosslake has done very well, there is not a community in the area with better property values, we've never had debt and we are accumulating it now at a very rapid rate and I wonder where the road ends. We may not have to deal with it, but someone will. Councilmember Schultz stated that forty years ago, people didn't anticipate this population growth and this growth is what is causing the failures and is something that we can't control. The outlying areas of the cities are having problems with their septic systems and cesspools so that isn't the answer either. Councilmember Miller stated that Breezy Point is not having problems with their municipal system and it is as old as any of them. In fact, they are commended yearly by the State. If it wasn't for their sewer system we wouldn't be seeing a school in the area. Mayor Swanson stated that a lot of the types of systems that are being installed now work very well. This was confirmed by City Engineer Dave Reese since they are monitored by the MPCA and require licensed operators to run the systems. There being no further comments, Mayor Swanson called for the question. MOTION CARRIED WITH MAYOR SWANSON AND COUNCILMEMBERS SCHULTZ AND MILLER VOTING AYE AND COUNCILMEMBERS EGGENA AND PHILLIPS VOTING NAY.

City Administrator Tom Swenson stated that the Council has already approved the engineering agreement for all phases of the sewer project, but approval is being requested to move into the construction phase of the project. MOTION 01S1-02-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO APPROVE MOVING INTO THE CONSTRUCTION PHASE OF THE SEWER PROJECT WITH WSN. MOTION CARRIED WITH MAYOR SWANSON AND COUNCILMEMBERS MILLER AND SCHULTZ VOTING AYE AND COUNCILMEMEBERS EGGENA AND PHILLIPS VOTING NAY.

It was again noted that Mr. Stone has withdrawn his request to be heard by the Council.

MOTION 01S1-03-03 WAS MADE BY CHUCK MILLER AND SECONDED BY DEAN EGGENA TO ADJOURN THIS SPECIAL COUNCIL MEETING AT 9:46 A.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by,

A handwritten signature in cursive script that reads "Darlene J. Roach". The signature is written in black ink and is positioned above the printed name.

Darlene J. Roach  
Clerk/Treasurer

SPECIAL COUNCIL MEETING – January 17, 2003

**CITY OF CROSSLAKE  
COUNTY OF CROW WING  
STATE OF MINNESOTA**

**RESOLUTION NO. 03-01  
RESOLUTION AUTHORIZING CONTRACTS FOR  
WASTEWATER TREATMENT PLANT AND  
COLLECTION SYSTEM**

WHEREAS, on December 20, 2002 the City of Crosslake awarded bids for the City of Crosslake Wastewater Treatment Plant and Wastewater Collection System Project; and

WHEREAS, Construction Contracts were drafted and presented for the Wastewater Treatment Plant (Contract #1) and the Wastewater Collection System (Contract #2) for approval by the City Council on January 17, 2003 at a Special Council Meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CROSSLAKE, MINNESOTA:

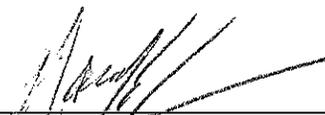
1. The Mayor and City Administrator are hereby authorized and directed to execute Contract #1 with KHC Construction of Marshall, Minnesota in the name of the City of Crosslake for the improvement of the City of Crosslake Wastewater Treatment Plant according to the plans and specifications therefore approved by the City Council and on file in the office of the city clerk, including issuing the Notice to Proceed.

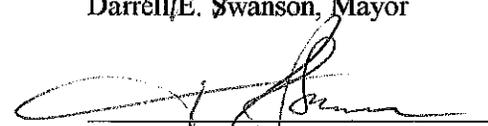
2. The Mayor and City Administrator are hereby authorized and directed to execute Contract #2 with Hammerlund Construction of Grand Rapids, Minnesota in the name of the City of Crosslake for the improvement of the City of Crosslake Wastewater Collection System according to the plans and specifications therefore approved by the City Council and on file in the office of the city clerk, including issuing the Notice to Proceed.

3. Paragraph numbers 1 and 2 are contingent upon the following:

- a) All requirements contained within the letter of the City Attorney dated January 16, 2003 are met (**Exhibit A**); and
- b) A favorable opinion letter from the City's Bond Counsel regarding City's ability to levy for repayment of bonds issued for the sewer project.

Adopted by the City Council this 17<sup>th</sup> day of January 2003 by a vote of Ayes – Swanson, Miller, Schultz, Nays – Eggena, Phillips.

  
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Darrell E. Swanson, Mayor

  
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Thomas N. Swenson, City Administrator