

SPECIAL COUNCIL MEETING
CITY OF CROSSLAKE
THURSDAY, MAY 5, 2005
9:00 A.M. - CITY HALL

Pursuant to proper notice and call, the City Council met in a special session on Thursday, May 5, 2005 at City Hall. The following Councilmembers were present: Mayor Jay Andolshek, Terry Curtis, Dean Eggena, Dick Phillips and Dean Swanson. Also present was City Administrator Tom Swenson, Community Development Director Ken Anderson, Police Chief Bob Hartman, Public Works Director Ted Strand, Parks and Recreation Director Jon Henke, City Attorney Kirk Adams and Clerk/Treasurer Darlene Roach. Also in attendance was Renee Richardson of the Brainerd Dispatch, Brian Clapper of the Lake Country Echo and approximately seventeen individuals.

Mayor Andolshek called the special meeting to order at 9:00 A.M.

The first item on the agenda was determination of ownership of the Chamber of Commerce Information Building. A letter from Lisa Paxton dated May 2, 2005 on behalf of the Crosslake Area Chamber of Commerce and a memo from City Administrator Tom Swenson, who researched past minutes and letters contained in City files, both appear to conclude that the Chamber of Commerce owns the building. The building resides on property owned by the Corps of Engineers and leased to the Crosslake Historical Society who has a sub-lease with the Chamber of Commerce.

Councilmember Eggena stated that he doesn't think the land can be separated from the building and that the building may also belong to the Historical Society. Councilmember Swanson stated that when plans to construct a building got underway, funds were donated by the Whitefish Area Lions to be used by the Chamber of Commerce. Swanson feels the Chamber owns the building. Swanson stated that the only role the City played was as recipient of the gambling funds on behalf of the Chamber. However, the City did participate over the years in grounds maintenance. Swanson stated that he wouldn't have a problem with a budgeted amount each year from the City to the Chamber and they can decide how to spend the money. Councilmember Phillips agreed with this. City Attorney Adams stated that he would like a copy of the lease conveyed to the Chamber by the Historical Society.

Lisa Paxton, Executive Director of the Brainerd Lakes Area Chambers of Commerce, addressed the Council and expressed appreciation for the on-going relationship the Chamber has with the City and the Lions Club. She stated that the Chamber would like to clarify the ownership of the building between all parties. Paxton stated that the Chamber's position is that the building belongs to them even though the land belongs to the Corps and is subleased to the Chamber by the Historical Society. In Brainerd, the Chamber building is owned by the Chamber but is situated on leased land. Councilmember Eggena asked what the City of Brainerd provides to the Chamber. Paxton stated that the Chamber has a partnership with the City for snowplowing, light changing and etc. Eggena stated these items are situated in the public right-of-way which

accounts for why the City of Brainerd is performing these services. It was noted that the City does not plow the Chamber parking lot in Brainerd but in Pequot Lakes the City does plow the parking lot since the Chamber building is on City property and maintained by the City. No building maintenance is conducted by the City of Pequot Lakes. Councilmember Eggena stated that he could agree to expend funds on City owned property but not on maintaining private property. Lisa Paxton stated that it is the decision of the Council in each municipality, however the Chamber views their presence as a service that the City doesn't have to provide. City Administrator Swenson noted that the Chamber does provide public restrooms. Councilmember Curtis stated that the issue is primarily maintenance and that the City could provide a donation to the organization by placing a value on the service provided. The action taken by the City Council in 1991, which provided \$10,000 annually for a period of two years was reviewed. Each subsequent year at budget time, the Chamber approaches the City to request a donation to assist with the service they provide to the City.

MOTION 05S1-01-05 WAS MADE BY DEAN SWANSON AND SECONDED BY DEAN EGGENA TO CONFIRM THAT THE CITY HAS NO OWNERSHIP OR INTEREST IN THE CHAMBER BUILDING RELATED TO THE LAND OR THE BUILDING. MOTION CARRIED UNANIMOUSLY.

Regarding maintenance, Councilmember Phillips felt the City Council should only look at providing a monetary donation to the Chamber. Mayor Andolshek felt that if we're looking at dollars, it would be cheaper to do the mowing. Councilmember Swanson agreed with providing an in-kind donation by means of grounds maintenance. City Administrator Swenson noted that the Chamber has requested an annual donation of \$2,000 for the building, \$2,000 for fireworks and grounds maintenance. Councilmember Eggena asked what the liability was for the City to mow on private property. It would be public tax dollars supporting private property. What to use as a measured value was discussed as well as whether or not the City would mow for the Lions Club, should they construct a building. It was agreed that the Council would need to be consistent with what they felt constituted a service. It was the consensus of the Council that the Chamber take the information presented back to their Advisory Board for review and come back to the Council with a proposal. MOTION 05S1-02-05 WAS MADE BY DEAN EGGENA AND SECONDED BY DEAN SWANSON TO TABLE THE DISCUSSION REGARDING A MONETARY DONATION TO THE CHAMBER UNTIL THEY COME BACK WITH A PROPOSAL. MOTION CARRIED UANNIMOUSLY.

The next item on the agenda was to discuss operating procedures for handling complaints. Mayor Andolshek read a prepared statement dealing with this issue. MOTION 05S2-03-05 WAS MADE BY JAY ANDOLSHEK AND SECONDED BY DEAN SWANSON TO TABLE ANY DISCUSSION REGARDING OPERATING PROCEDURES FOR HANDLING COMPLAINTS OR ENFORCMENT OF ORDINANCES UNTIL SUCH TIME AS WE ARE DONE WITH THE LANDFILL ISSUES AND MOVE ON TO DISCUSSION AS TO TIMEFRAME FOR COUNCIL MEMBERS TO RECEIVE PACKETS FOR COUNCIL MEETINGS. MOTION FAILED WITH CURTIS AND PHILLIPS VOTING NAY AND ANDOLSHEK AND

SWANSON VOTING AYE. COUNCILMEMBER EGGENA ABSTAINED FROM THE VOTE.

Councilmember Curtis felt the Council would be discussing other items, not the landfill and the Mayor stated that he would proceed but felt the Council was out of bounds. Councilmember Swanson stated that when the meeting was called, he was under the impression that the issue dealt with how complaints are handled. Councilmember Phillips thought the Council was here to talk about general complaints. Mayor Andolshek stated that the Council would continue discussion.

Councilmember Swanson stated that when the City hired a City Administrator it was the job of his position to handle complaints. Before that hiring, it was as if the City had five administrators and it was chaos. Councilmember Phillips stated that he was looking for the funneling process and that this discussion could be a ten-minute process. Councilmember Eggena stated that he called the meeting to determine whether the Council liaison should go to the City Administrator or to each department head. The City has an organizational chart and it goes Mayor and Council to City Administrator and on to the department heads. As liaison to Public Works, he asked Tom Swenson if he should be going to him or to Ted Strand and Tom Swenson stated that everything should go through him. Eggena stated that is not consistent because he has watched other liaisons such as Councilmember Phillips and Curtis dealing directly with the department heads. Councilmember Swanson stated that it is his interpretation that the liaisons are communicators between the Commissions and the Council and liaisons have never directed Staff. Swanson stated that the organizational chart has been in place for eight years and this is the first time it's being challenged. Councilmember Curtis stated that he would like to know what the process is. Curtis stated that if he can't make or take calls to and from Ken Anderson then he would like the role clarified. While he stated he would like a procedure, he also would like to know how far one Councilperson can take an issue. He stated that the Brainerd City Council appears to have one person who oversteps the line, so would like the process clarified. City Administrator Swenson stated that the difference is directing versus asking questions of Staff. Is the Councilperson questioning or directing and acting like a department head? Since some of the departments do not have commissions, there is no go between and in the case of the Police Department much of their information is covered under data privacy. Councilmember Curtis stated that prior to this meeting, the Personnel Committee met and he has trust in that body as to what comes to the Council as a whole and what the role of the Council is as a single person. Councilmember Swanson agreed with Curtis that there is a fine line between talking and giving directives. Swanson stated that he doesn't think any documentation can be put together to explain this, but each Councilperson has to do what they feel is right and if they overstep their boundaries, they have to be called into account. Councilmember Curtis stated that he took an oath and that what he has been charged to do is a serious community service and wants to understand what the process is and when one would be out of bounds. Councilmember Eggena stated that he also took an oath and was elected by a majority of the voters to enforce statutes, ordinances and the constitution. He stated that he finds it cumbersome to deal with Tom Swenson in addressing Public Works issues, but hasn't gone to Ted Strand because of the

organizational chart. Eggena stated that Crosslake is a Plan A city that is run by the City Council. The other option is to be a Plan B city which has a city manager who has certain powers. Eggena feels that the liaison should be the direct link with the department head. If Jon Henke has a problem, he should contact his liaison and if there is a problem, then the Councilmember should contact another Councilmember to determine if it needs to go to the City Council as a whole. It was agreed that the only time a Councilmember has power is if they meet as a body and make a decision as a body. MOTION 05S-04-05 WAS MADE BY DEAN EGGENA AND SECONDED BY TERRY CURTIS THAT THE COUNCIL LIAISON WHO IS APPOINTED BY THE CITY COUNCIL WILL BE THE DIRECT LINK BETWEEN THE COUNCIL AND THE DEPARTMENT HEAD. Councilmember Curtis stated that according to the City Administrator, the role that he has been playing as liaison to Planning and Zoning is okay but indicated he would like more information. We need protocol, what is the process, what is the role. Mayor Andolshek stated that he sees the position of City Administrator similar to a general contractor and if the department heads don't understand the laws or the process, they funnel these concerns through the City Administrator. The liaisons don't always know what occurs on a day-to-day basis. In Minnesota, over 400 cities have a city administrator along with a weak mayor form of government. The Mayor presides over the meeting but has no more power than any other councilmember. The city administrator position is an appointed position versus an elected position. Councilmember Swanson stated that by approving the motion on the floor, the position of city administrator goes away. This is where we were nine years ago and this is not where we want to go. At that time, if a department head couldn't get something from one councilmember, they would go to another and another until they got what they wanted. The City Council does not need to micro manage the Staff but to see that the ordinances are followed. Swanson also commented in regards to a city manager, we're not ready for that position. It takes a larger city for that type of position. The city administrator type of organization has worked well for eight years and is a way of getting issues resolved. Swanson was adamant that this motion needs to be defeated. Councilmember Phillips feels this is a housekeeping issue. He doesn't think liaisons are even mentioned in Statute and indicated that maybe the Council needed to get the City Attorney involved for an explanation. City Attorney Adams stated that the Council is within their power under Statute to have a city administrator and that he could put together a letter indicating what powers the city administrator has and what powers the liaisons have. Councilmember Swanson feels that liaisons are a carryover from the pre city administrator position. Councilmember Curtis stated that he doesn't see this motion as the elimination of the City Administrator and stated that he did not second the motion to eliminate the city administrator now or in the future. Curtis stated that the only time he would eliminate anyone would be in the case of an unethical issue or performance issue. Curtis stated that he is not afraid of the job he was elected to do. He stated that we have too much bureaucracy and we need answers for the public. We need to keep big city government out of small town USA. If I understand my role, I can determine when not to cross the line. Councilmember Curtis looked directly at City Administrator Swenson and stated to him that he is not here to eliminate his job. Councilmember Eggena stated that he doesn't think there is an abuse of power by liaisons and stated that this is not an action to get rid of the city administrator position, we merely need to define how the city operates.

Councilmember Swanson stated that he has an issue in that the City Administrator needs to be in the loop. Swanson stated that he has no problem going to the City Administrator and doesn't feel the City Administrator has a problem going to the liaison with concerns. Councilmember Curtis stated that he respects Councilmember Swanson's opinion having served on the Council for eighteen years and that each Council has the right to determine how they wish to operate. Curtis stated that he won't keep the City Administrator out of the loop since he's a valuable source of information and would not diminish Tom's eight years of experience with the City of Crosslake. Curtis also stated that he wants more than a title and to be accountable for his actions as a councilmember.

Chief Hartman addressed the Council and recalled when the City Administrator first came here. He stated that Staff was nervous, but within three to four months, he proved to be a tremendous help to the department heads. Hartman stated that he can go to Tom Swenson with data privacy issues that he could not discuss with anyone else. He stated that five years ago there was an officer who was personally involved in a criminal investigation and Tom's experience guided him through the process.

General Manager Dennis Leaser stated that he feels more comfortable going to the City Administrator first on sensitive issues. He stated that the various Council's all come from different backgrounds but the City Administrator has government experience. He stated that he and Tom resolve many issues that don't need to come to the Council. Leaser stated that he would totally disagree with abolishing the position of City Administrator and supports Tom Swenson in that position 100%.

Park and Recreation Director Jon Henke addressed the Council to express his support for Tom Swenson. He stated that the liaison plays an important role in the process but is a citizen in addition to being an elected official. Henke stated that it is more efficient for him to talk to the City Administrator based on his years of experience in government. Henke stated that what we have is working so why change it, no one is complaining.

Mayor Andolshek asked if the Council would allow public comment and upon consensus agreed that the public could comment.

Dean Spencer addressed the Council and stated that he worked in city government for thirty years. He stated that Tom Swenson has done a fantastic job as City Administrator and that the Council is trying to micro-manage.

Community Development Director Ken Anderson spoke in general terms regarding the city manager position versus city administrator position. He stated that a city manager has the power to hire and fire but in the city administrator form of government, this power rests with the Council. He stated that the City Administrator brings a professional foundation to the City to help the Council make informed decisions. He stated that Councils change every two years and it is helpful for new councils to have the experience of the City Administrator to rely on. Anderson stated that the day-to-day operations should be handled by the City Administrator, while the Council should be setting policy. Staff is charged with implementing the policy's set by the Council and the City

Administrator promotes efficiency as far as service delivered. Without a city administrator, you run the risk of department heads becoming too compartmentalized. Anderson stated that he has worked with two city managers and two administrators as a consultant to city's and it is his experience that Crosslake surpasses his work with any of the other cities. He stated that Crosslake has an outstanding City Administrator.

Public Works Director Ted Strand stated that he wished to express his support of Tom Swenson. He stated that he has worked for four city administrators and this works well.

Clerk/Treasurer Darlene Roach addressed the Council expressing her support of Tom Swenson and for the position of City Administrator. As the employee with the most years with the City, she stated that she has seen how valuable the position of City Administrator is after Tom Swenson came on board. Many issues get worked out between employees and council members that never leave the administrator's office. Without the administrator position, everything is discussed at the Council level and nothing is kept private. The administrator position also brings consistency with employees since council members come and go every couple of years.

Councilmember Curtis stated that the Council is hearing everyone's support of Tom Swenson and can't imagine this position being eliminated and even suggested that maybe Tom should be on the same line of the organization chart as the Council. Curtis stated that we're blowing things way out of proportion.

Public Works Director Ted Strand stated that things have been said about the firing of City employees and that he doesn't appreciate these statements. He agreed with the statement that government and business don't blend. He feels that the City's organization works well and that the department heads support the City Administrator's position. He stated that any Councilmember can talk to Staff, but don't direct them. He stated that Councilmember Eggena knows what comments he is talking about. He stated we have a good staff and we need to let them do their jobs, don't micro-manage.

Councilmember Eggena stated that if it is okay for Councilmembers to go to Staff then the organizational chart needs to be changed since that is not what the chart indicates. Councilmember Curtis stated that he sees this as a power struggle that needs clarification. Councilmember Swanson stated that none of us can be muzzled, we can talk to anyone we want to, there's no rule, we have freedom of speech. He stated that we talk to get information and knowledge. Councilmember Curtis asked for Tom's comments and he stated that Councilmember Curtis has not crossed the line in speaking with Ken Anderson to obtain information. He stated that if there is an issue, the three of us get together. However, if the department head is being pressured by a Councilmember then they don't know who they report to and that could present a problem. He stated that department heads wouldn't know how to prioritize if they are being directed in their jobs by different Councilmembers. Curtis felt a clarification of the motion was required.

MOTION AMENDED BY DEAN EGGENA AND SECONDED BY TERRY CURTIS
TO STATE THAT ALL CITY COUNCIL MEMBERS AND MAYOR MAY HAVE

DIRECT CONTACT WITH ALL DEPARTMENT HEADS. Discussion ensued regarding what constituted direct contact and it was the consensus of the Council that no Councilmember will be allowed to give direction.

Sandy Eliason addressed the Council and stated that the Council's job was to set policy and they don't need all this other stuff cast in stone. Why do you need a motion that is going to cause interpretation problems. Councilmember Curtis stated that the Council is dealing with this because there are inconsistencies.

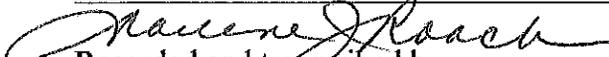
Pat Netko addressed the Council and stated that she found it appalling and embarrassing to listen to this discussion and recommended that the Council get rid of their egos and political agendas and quit nitpicking and do what needs to be done in the City. She said the Crosslake City Council is becoming the talk of everyone. AMENDED MOTION CARRIED WITH CURTIS, EGGENA AND PHILLIPS VOTING AYE AND ANDOLSHEK AND SWANSON VOTING NAY. There was discussion regarding the original motion on the floor and what action the Council was going to take on it. It was agreed that no Council action would be taken.

Councilmember Eggena stated that he has five more procedural items to discuss.

Regarding council packets, the Council discussed receiving the regular council packets earlier in the week preceding the Monday night meeting. Currently packets are available late Friday afternoon for the Monday night regular meeting. It was felt that this does not allow the Council enough time to ask questions of Staff since City Offices are closed on weekends. It was agreed that special council meetings and emergency meetings could be handled differently. MOTION 05S-05-05 WAS MADE BY DEAN EGGENA AND SECONDED BY TERRY CURTIS TO ENCOURAGE STAFF TO PREPARE AND MAKE AVAILABLE COUNCIL PACKETS THREE WORKING DAYS PRIOR TO THE MEETING. MOTION CARRIED WITH CURTIS, EGGENA AND PHILLIPS VOTING AYE AND ANDOLSHEK AND SWANSON VOTING NAY. It was agreed that three working days would mean Council Packets should be available on Wednesday evening prior to the Regular Council meeting.

It was agreed that the remaining items listed on the agenda would be discussed at a subsequent meeting. Councilmember Eggena provided a list of the remaining items which consist of State Statute 412.192, Subd, 2, 412.201, 412.221 Subd, 5 and 412.761, Subd, 1. Councilmember Phillips stated that if Councilmember Eggena was requesting a special meeting, he would be the second Councilmember to call said meeting. It was the consensus of the Council that the City Attorney could provide an interpretation of these Statutes at the meeting.

MOTION 05S-05-05 WAS MADE BY DEAN EGGENA AND SECONDED BY TERRY CURTIS TO ADJOURN THIS SPECIAL MEETING AT 11:45 A.M. MOTION CARRIED WITH ALL AYES.


Recorded and transcribed by,
Darlene J. Roach, Clerk/Treasurer