

SPECIAL COUNCIL MEETING  
CITY OF CROSSLAKE  
THURSDAY, JUNE 2, 2005  
4:00 P.M. - CITY HALL

Pursuant to proper notice and call, the City Council met in a special session on Thursday, June 2, 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, City Attorney Kirk Adams and Clerk/Treasurer Darlene Roach. Also in attendance was Renee Richardson of the Brainerd Dispatch and Betty Ryan of the Lake Country Echo. There were approximately 30 individuals in the audience.

Mayor Andolshek called the meeting to order. The purpose of the meeting was to review the revised City Organizational Chart, review the number of Council votes required to make ordinance changes to the Zoning Ordinances, review the Shoreland Act versus the City Code, review an Ordinance Amendment pertaining to Utilities Commission Advisory Board, review the P.U.D. status, the status of the Comprehensive Plan, review a Metes and Bounds Park Dedication Fee for Doug Murray and approve bills for payment.

A memo dated May 23, 2005 from City Administrator Swenson contained two proposed options to the City's Organizational Chart based on Council action at the May 5, 2005 meeting. At said meeting, a motion was made by Councilmember Eggena that would allow City Council Members and the Mayor to have direct contact with all department heads for the purpose of obtaining information. The motion, which was seconded by Councilmember Curtis, passed 3-2 with Mayor Andolshek and Councilmember Swanson opposed. MOTION 06S1-01-05 WAS MADE BY DEAN SWANSON AND SECONDED BY DICK PHILLIPS TO APPROVE OPTION NO. 2 WHICH IS THE EXISTING ORGANIZATIONAL CHART WITH THE ADDITION OF THE STATEMENT "NOTE - THE MAYOR AND COUNCILMEMBERS SHALL HAVE ACCESS TO ALL EMPLOYEES FOR THE PURPOSE OF GATHERING INFORMATION". MOTION CARRIED UNANIMOUSLY.

A letter dated May 24, 2005 from City Attorney Kirk Adams informed the Council that in 2001 the Legislature amended State Statute changing the voting requirements for zoning ordinance amendments from a 2/3 vote to a majority vote of all members of the governing body. This change removed the statutory requirement for a 2/3 vote except in certain cases which were identified in part in the letter from City Attorney Adams. The City's Zoning Ordinance requires a 4/5 vote. At the last Council Meeting an Ordinance Amendment regarding metal-sided structures failed on a 3-2 vote and after reviewing State Statute certain members of the Council requested a review of the City's Ordinance pertaining to this matter. City Attorney Adams prepared a Zoning Ordinance Amendment which would change the vote requirement from a 4/5ths vote to a majority vote. Adams noted, however, that a 4/5ths vote of the Council would still be required for publishing a summary of the Ordinance Amendment. Councilmember Swanson stated that it doesn't make sense to allow a majority of the Council vote on the ordinance

amendment itself but require a 4/5ths vote to have a summary published. City Attorney Adams stated that as a part of his research, he found an Attorney General's opinion where in late 2001 and early 2002, in Moorhead, Minnesota it was concluded that the City could not be more restrictive than the State on this issue. Swanson stated that he questioned this opinion since generally cities can be stricter, not less strict, than State Statute and felt the City should get a second opinion. City Administrator Swenson asked Attorney Adams about the word "majority" in Section 8.62, Subd.2. A and whether that should be clarified. If five are present, do you need three votes and if three are present, do you need only two votes. City Attorney Adams stated that, in his opinion, any vote would require a majority of those in attendance. Adams stated that he would review this for the next meeting and provide a copy of the Attorney General's opinion which he reviewed. Councilmember Eggena stated that the State dictates the rules that Council's operate under and if they state a 2/3rds vote is required, that is what the City is required to follow. Eggena stated these are governing rules and he doesn't think the Council needs to wait for another meeting to vote on the change. MOTION 06S1-02-05 WAS MADE BY DEAN EGGENA AND SECONDED BY TERRY CURTIS TO ADOPT THE ORDINANCE AMENDING CHAPTER 8 OF THE CITY CODE RELATING TO VOTING REQUIREMENTS FOR PLANNING AND ZONING ORDINANCE AMENDMENTS AS WRITTEN. Councilmember Curtis commented that the Council is only revising the City's Ordinance to match what Minnesota Statute already requires. Councilmember Swanson asked what the rush was in approving this change. Swanson feels he should be allowed to have his questions answered. City Administrator Swenson agreed that a ruling should be obtained on whether the majority vote is a majority of those in attendance or a 2/3rds vote of the entire Council. Swanson agreed that should be determined before the vote as well as his receiving a copy of the Attorney General's opinion. Councilmember Phillips stated that the reason for the meeting is to keep moving and get things accomplished. Phillips asked about the 4/5ths requirement for publishing and he was told it is strictly an economic issue in that the entire Ordinance Amendment would need to be published if a 4/5ths vote was not obtained. City Attorney Adams stated that three votes out of three would be required if only three Councilmembers were in attendance. MOTION CARRIED WITH CURTIS, EGGENA AND PHILLIPS VOTING AYE AND MAYOR ANDOLSHEK AND SWANSON VOTING NAY.

MOTION 06S1-03-05 WAS MADE BY DEAN EGGENA AND SECONDED BY DICK PHILLIPS TO AUTHORIZE PUBLISHING A SUMMARY OF SAID ORDINANCE AMENDMENT. Community Development Director Ken Anderson addressed the Council and stated that this is an Ordinance Amendment to Chapter 8, which requires that a public hearing be held. City Attorney Adams agreed with Anderson and stated that a public hearing would be required prior to adoption of the Ordinance Amendment. MOTION WITHDRAWN. City Attorney Adams recommended that the Council withdraw their original motion as well. MOTION 06S1-02-05 WAS WITHDRAWN BY EGGENA AND SECONDED BY CURTIS.

MOTION 06S1-03-05 WAS MADE BY TERRY CURTIS AND SECONDED BY DEAN EGGENA TO PROCEED WITH THE PUBLIC HEARING AT THE JUNE PLANNING AND ZONING COMMISSION MEETING TO TAKE PUBLIC

COMMENTS REGARDING A CHANGE IN THE ZONING ORDINANCE DEALING WITH VOTING REQUIREMENTS FOR ZONING ORDINANCES. MOTION CARRIED UNANIMOUSLY.

The next item under consideration was to review the Shoreland Act as it pertains to City Zoning. Councilmember Eggena stated that this issue was touched upon at a previous meeting and citizens are waiting for a Council decision on this matter. At the last meeting, the Council asked the City Attorney to give the Council help on how to interpret the Shoreland Act when it involves a municipality. Councilmember Eggena stated that as our Ordinances in the City have been written, they've been submitted to the DNR. Eggena stated that the City's Ordinance Book follows the DNR guidelines and he would like to see the Planning and Zoning Staff and Commission only use one set of rules since our Ordinances meet the Shoreland Act standards. City Attorney Adams stated that he can only assume that the ordinances were sent to the DNR for approval, however the City cannot find this documentation in their files. Adams stated that regarding 103F.221 of MN State Statutes, the City has to be in substantial compliance. Under 6120 of the Shoreland Act, in order to be in substantial compliance, the ordinances would need to be sent to the DNR for approval by the DNR Commissioner with changes made where the local ordinances are not in compliance with the Shoreland Act. Currently the City's Zoning Ordinance states that the shoreland standards shall be the first City reference document and shall govern in case of oversight, exclusion or question and shall govern the City's administration of Chapter 8 in shoreland matters where standards are set forth by the DNR. Councilmember Swanson asked why the City would want to amend the ordinance and City Attorney Adams stated that it would be a policy decision by the Council to delete this verbage from the Ordinance. Mayor Andolshek stated that the lakes and shoreland are both important to the City and he supports the Shoreland Act and would not want to circumvent the DNR from the process. Councilmember Eggena stated that two land subdivisions were brought to the Council last year and approved which are in conflict with the Shoreland Act and the Council would have to reverse this approval. Eggena stated that he can name plat after plat where we followed our Ordinance books and now we have non-conforming lots. Councilmember Swanson stated that these plats were approved by the City Council and the DNR has not opposed the platting so the City is in compliance. Councilmember Phillips stated that the Council is getting nowhere in this discussion. Councilmember Curtis suggested that the Council follow the Ordinance we have and would not be in favor of loosening the standards. Curtis stated that is what we've crafted our City around. MOTION 06S1-04-05 WAS MADE BY TERRY CURTIS AND SECONDED BY DEAN SWANSON TO FOLLOW THE CITY ORDINANCE AND ANY DISCREPANCY BETWEEN THE CITY CODE AND THE SHORELAND ACT THE ORDINANCE IS FOLLOWED. City Attorney Adams stated that if there is a discrepancy in the Ordinance, the Shoreland Act needs to control the decision.

Resident Sandy Sweeney addressed the Council and inquired whether the documents were ever sent to the DNR. Ken Anderson stated that under current practice, documents are forwarded to the DNR but he cannot speak to the past. Anderson stated that he evaluates all proposed sub-divisions against the Ordinance and the Shoreland Act,

however there may have been sub-divisions approved before his time less restrictive than the Shoreland Act and less restrictive than the Ordinance. Anderson stated that where the Ordinance is silent, he consults the Shoreland Act. Councilmember Eggena stated that our Ordinance has tiers for lake lots and back lots and gave examples of the requirement for lot sizes under the Shoreland Act.

Ms. Sweeney again addressed the Council and stated that there appears to be a lot of confusion. She stated that what happened twenty years happened but how can the Council make a decision without data. She stated assumptions are being made. Sweeney stated State Law is what is to be followed and the Council has an obligation to endorse what the State has ruled.

City Attorney Adams stated that it would be against legal counsel's advice to remove the Shoreland Act language from the Ordinance.

City Administrator Swenson asked what the intent of the motion was and Councilmember Curtis stated that the motion was to follow the process that is in place now. MOTION CARRIED 4-1 WITH MAYOR ANDOLSHEK OPPOSED.

Community Development Director Anderson asked if this was a motion directing him to ignore the Shoreland Act or is the Council going to make a motion to take the reference to the Shoreland Act out of the Ordinance. It was the consensus of the Council to direct Ken Anderson and City Attorney Kirk Adams to resolve this.

The next item on the agenda was to review the Ordinance Amendment prepared by City Attorney Kirk Adams pertaining to the Crosslake Communications Advisory Board. In reviewing the Amendment, General Manager Dennis Leaser commented that he has some issues with the document as proposed. Councilmember Curtis asked if this document was the result of changes put together by Leaser but in Ordinance format and this Amendment is the result of those changes. Items of concern for Leaser included the Advisory Board directing the affairs of Crosslake Communications and its subsidiaries, the expenditures authorized by the Board under this Ordinance Amendment, the duties and responsibilities regarding guidelines for the Manager, the amount of operating transfer to the City and the requirement for monthly versus bi-monthly meetings. City Administrator Swenson also expressed several concerns with the document. Councilmember Phillips suggested that General Manager Leaser, City Administrator Swenson and himself have a working meeting to review the various concerns.

The status of Planned Unit Developments was discussed. Councilmember Swanson asked if this issue was referred to the Planning and Zoning Commission through the liaison and Councilmember Curtis stated that it was discussed once at a Commission Meeting and another meeting is scheduled for June 6<sup>th</sup>. City Attorney Adams reminded the Council that no further extensions to the moratorium could be granted. Councilmember Phillips stated that he has heard from various residents who are upset with PUD's and wouldn't want to wait until the final hour to make a decision. Councilmember Eggena stated that his position is to prohibit PUD's, but the existing

resorts need to be dealt with and he would encourage the Planning and Zoning Commission to review this area. Councilmember Eggena stated that in some areas when you look at density versus the amount of lakeshore, the equation results in about 4' per condo for lake access. Eggena stated that we could allow PUD's off lake such as in the assisted living development proposal and etc. but not on the water. Councilmember Curtis suggested focusing on resorts and common interest areas versus residential or private ownership. Councilmember Swanson feels the density factor in our Ordinance is not correct and should be looked at. Councilmember Phillips asked if a recommendation could come from the Planning and Zoning Commission by August or September. Ken Anderson stated that the Commission wants to look at examples of what other communities are doing as well as looking at density since City Surveyor Jeff Miller agrees density needs to be looked at also.

Community Development Director Ken Anderson stated that the Council has been reviewing the Comprehensive Plan since 2003 and at a recent meeting the Council asked for a copy of the 1996 Plan and the Draft 2003 Plan including color maps. These documents were distributed to the Council. A meeting to review these documents was set for Thursday, June 30<sup>th</sup> at 4:00 P.M. Residents can obtain a copy for \$10 or they can sign a copy out for review and return to City Hall.

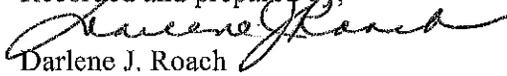
The Park and Recreation Commission and the Planning and Zoning Commission recommend that the City Council accept cash in lieu of land for Subdivision 2005-006 in the amount of \$10,000 for Doug Murray. Mr. Murray is taking one large narrow parcel and creating three parcels, so two of the parcels are subject to park dedication fees. MOTION 06S1-05-05 WAS MADE BY DEAN EGGENA AND SECONDED BY JAY ANDOLSHEK TO ACCEPT CASH IN LIEU OF LAND FOR SUBDIVISION 2005-006 FOR DOUG MURRAY IN THE AMOUNT OF \$10,000. Councilmember Phillips asked if these lots will all have lake access and Ken Anderson stated that only Tract C fronts on the pond. MOTION CARRIED UNANIMOUSLY.

Bills for Approval – MOTION 06S1-06-06 WAS MADE BY DEAN EGGENA AND SECONDED BY DICK PHILLIPS TO APPROVE BILLS FOR PAYMENT IN THE AMOUNT OF \$55,426.43 AS SUBMITTED. MOTION CARRIED WITH COUNCILMEMBER CURTIS ABSTAINING FROM THE VOTE.

Councilmember Phillips requested documentation on sewer hookups and how much revenue is coming in at the next meeting.

MOTION 06S1-07-06 WAS MADE BY DEAN EGGENA AND SECONDED BY TERRY CURTIS TO ADJOURN THIS SPECIAL MEETING AT 5:32 P.M. MOTION CARRIED WITH ALL AYES.

Recorded and prepared by,



Darlene J. Roach  
Clerk/Treasurer

**BILLS FOR APPROVAL**  
2-Jun-05

VENDORS	DEPT	AMOUNT
Ace Hardware, rope, wrench, plier, bucket, pail	PW	32.86
Ace Hardware, fuses	PW	1.60
Ace Hardware, lockwash, washers, nuts, screws	PW	19.07
Ace Hardware, saw chains	Fire	40.45
Anderson Brothers, cracksealing	PW	24,985.00
AW Research, water test	Sewer	132.00
Black Diamond Tree Service, tree removal	PW	292.88
Brothers Motorsports, titanium line	P&R	3.73
Build All Lumber, insulation	Sewer	1,491.93
California Contractors, blades, coveralls	PW	229.55
Cascade Computers, computer system	Admin	1,203.77
Cascade Computers, install port replicator	Police	265.64
Chief Supply, batteries, fuses	Fire	135.34
City of Crosslake, sewer utility bills	PW/Gov't	60.00
Council #65, union dues	ALL	273.35
Crosslake Communications, phone, fax, internet, cable	ALL	1,293.51
Crosslake Rolloff, recycling	Gov't	2,450.00
Deferred Comp	ALL	491.66
Dacotah Paper, tissue, can liners	Gov't	136.35
Dacotah Paper, tissue	PW	126.25
Delta Dental, dental insurance	ALL	1,086.45
Echo Publishing, meeting notice	P&Z	70.95
Echo Publishing, building permits	P&Z	163.24
Election Systems & Software, receipt book	Admin	26.45
Election Systems & Software, receipt books	Admin	45.15
Fastenal, paint, stake flags	PW	80.60
Fortis, disability	ALL	236.42
Infratech, sensor for multivision	PW	149.57
Jay Lorch, reimburse uniform cost	Police	139.86
J-Craft, hinge pin	PW	30.66
L&M Steel, 1 1/2 cr x 7 1/2	PW	9.59
Martin Communications, durus case minitor	Fire	67.10
Martin Communications, antenna	Fire	37.00
Martin Communications, repair pager	Fire	121.67
Mastercard, Bladetech, taser holster	Police	55.95
Mastercard, business lunch with auditor	Admin	23.50
MCFOA, membership fees	Admin	70.00
Medica, health insurance	ALL	10,929.62
Metro Fire, foam, pump, forestry pump	Fire	877.10
Midwest Radar & Equipment, radar certification	Police	225.00
MN Assn of Small Cities, dues	Gov't	843.35
MN Benefits	Admin	100.92
MN Life, life insurance	ALL	319.20
Molly's Cleaning Service, april and may cleaning	Gov't	1,496.00
M R Sign, street sign	PW	37.37

NCPERS-Life Insurance	ALL	144.00
North Ambulance, subsidy	Ambulance	1,103.00
Northeast Technical Services, wastewater analysis	Sewer	108.80
Northeast Technical Services, wastewater analysis	Sewer	108.80
Northwood Turf & Power, two tires, install tubes	PW	40.87
Nortrax, clutch adjustment	PW	226.11
PERA	ALL	N/A
Quill, ledger paper	Admin	142.85
Reed's Market, sentence to serve	PW	71.55
Simonson Lumber, treated wood	PW	13.82
State and Federal Taxes	ALL	N/A
State Chemical Manufacturing, enhance plus, fragrance pak	PW	715.15
Tom Huesmann, bronze bushing	PW	111.20
Tom Swenson, vehicle allowance	Admin	400.00
Unicel, cell phone charges	Police	14.69
Unicel, cell phone charges	PW	90.48
US Tennis Assn, membership renewal	P&R	25.00
Xcel Energy, gas utilities	ALL	607.16
Ziegler Cat, replace gasket/seal hydraulic accumulator	PW	412.82
Ziegler Cat, repair governor actuator	PW	182.47
<b>TOTAL</b>		<b>55,426.43</b>