

COUNCIL PROCEEDINGS  
CITY OF CROSSLAKE MINNESOTA  
REGULAR COUNCIL SESSION  
AUGUST 9, 1993  
7:30 P.M. AT CITY HALL

The Council for the City of Crosslake Minnesota met in a joint session with the Planning and Zoning Commission in the Council Chambers of City Hall on Monday, August 9, 1993. The following Councilmembers were present: Mayor Kurt Anderson, Lyle Arends, Charles Miller and Dean Swanson. John Webster was absent. Also present were Paul Sandelin representing the City Attorney's Office as well as approximately 22 Citizens.

Mayor Anderson called this meeting to order at 7:30 welcoming all the new faces at the meeting and stating that the first item on the agenda would be the Consent Calendar.

MOTION NO. BR-01-93 WAS MADE BY C. MILLER AND SECONDED BY L. ARENDS TO APPROVE ALL ITEMS ON THE CONSENT CALENDAR CONSISTING OF: (1) MINUTES OF JULY 12, 1993 REGULAR SESSION; (2) MINUTES OF JULY 13, 1993 SPECIAL COUNCIL SESSION WITH THE PLANNING AND ZONING COMMISSION; (3) MINUTES OF THE TAX INCREMENT FINANCING PUBLIC HEARING ON JULY 27, 1993; (4) THE CLERK/TREASURER'S FINANCIAL REPORT FOR JULY 1993; (5) THE TELEPHONE COMPANY'S FINANCIAL REPORT FOR JULY, 1993; AND (6) THE CABLEVISION COMPANY'S FINANCIAL REPORT FOR JULY, 1993. MOTION PASSED UNANIMOUSLY.

CLERK'S REPORT - MOTION NO. BR-02-93 WAS MADE BY DEAN SWANSON AND SECONDED BY C. MILLER TO PAY ALL BILLS INCLUDING: (1) MN ASSOCIATION OF SMALL CITIES DUES \$233.48; (2) PEQUOT SAND AND GRAVEL FOR CLASS #5 FOR COOL HAVEN LANE AND ANDERSON COURT FOR \$682.77; (3) LAKES AREA RENTAL FOR BDBCAT AND TWO MAN AUGER RENTAL FOR CEMETERY FENCE FOR \$175.73; (4) CITY ATTORNEY'S BILL; AND (5) NORTH COUNTRY EQUIPMENT FOR JOHN DEERE LOADER REPAIRS FOR \$959.25. MOTION PASSED UNANIMOUSLY.

Clerk Buchite indicated that she had a letter from Mike Murphy regarding the maintenance on the cul-de-sac on Ox Lake Landing. It was the consensus of the Council that the maintenance department do what they need to do and that the request for a letter be turned over to Mr. Webster for response.

Mark Miller a resident of the McLin Subdivision wrote a letter requesting that the City define the corners of the public landing. MOTION NO. BR-03-93 WAS MADE BY L. ARENDS AND SECONDED BY C. MILLER TO RETAIN DON COULTER TO SURVEY THE ACCESS DEDICATED TO THE PUBLIC IN MCLIN SUBDIVISION, SECTION 17, AND IF THERE ARE ANY ENCROCHMENTS THAT THEY BE ORDERED TO REMOVE THEM. MOTION PASSED UNANIMOUSLY.

Clerk Buchite stated that Mr. Webster had notified her before he left on vacation that he would approve of Municipal Ordinance Codifiers do the recodifying for the City because they had indicated that they would also make available, a computer disc with a copy of the ordinances for the City to use. MOTION NO. BR-04-93 WAS MADE BY D. SWANSON AND SECONDED BY L. ARENDS TO HAVE THE MUNICIPAL ORDINANCE CODIFIERS IN MINNEAPOLIS TO DO THE CITY CODIFICATION AS QUOTED IN THEIR LETTER. MOTION PASSED UNANIMOUSLY.

The League of Minnesota Cities contacted the City Clerk regarding the possibility of having an Intern work\_half time for Crosslake and half time for Breezy Point on personnel issues or other items the City Clerk needs, at no cost to the City. MOTION NO. BR-05-93 WAS MADE BY C. MILLER AND SECONDED BY D. SWANSON TO APPROVE THE OFFER TO SHARE AN INTERN WITH BREEZY POINT TO WORK IN THE CITY CLERK'S OFFICE. MOTION PASSED UNANIMOUSLY.

MOTION NO. BR-06-93 WAS MADE BY D. SWANSON AND SECONDED BY L. ARENDS TO RENEW THE TWO \$100,000 CERTIFICATES OF DEPOSIT THROUGH BRAINERD NATIONAL BANK FOR 6 MONTHS. MOTION PASSED UNANIMOUSLY.

A letter from Ron Eide of the Lands and Forests Advisory Committee showing the proposed popple harvest to take place in 1994 was reviewed briefly.

Mayor Anderson read the semi-annual list of donations from the Crosslake/Ideal Lion's Club to the audience.

MOTION NO. BR-07-93 WAS MADE BY D. SWANSON AND SECONDED BY C. MILLER TO ALLOW THE CLERK TO ATTEND THE MINNESOTA CLERKS AND FINANCE OFFICERS ASSOCIATION REGIONAL MEETING ON AUGUST 27 IN DULUTH. MOTION PASSED UNANIMOUSLY.

**MAYOR'S REPORT** - Mayor Anderson reported that the ADA report has not been filed as yet but he will take care of it as soon as possible. Fire Chief David Schliek questioned whether ADA requirements should be a part of the procedure used when recruiting additional volunteer firemen.

Mayor Anderson explained the progress on the two Tax Increment Finance projects to date. The project for Brian Bittner on the Daggett Brook Townhouses and Bill Reed's request to build a larger super market were noted. Mr. Swanson asked if additional council action was needed on the Bittner project because of City Attorney Gammello's concerns at the T.I.F. public hearing. Mr. Sandelin's response was that Mr. Gammello just needed some documentation from the Council on what the discussions were and the report from Mr. Swanson pretty well covered what was needed so he did not see any reason the project could not proceed.

Mayor Anderson spoke of a letter from Sheila Haverkamp of the Brainerd Lakes Area Development Corp. informing the Council of a

meeting on August 16, 1993 dealing with an economic blueprint for the area. Mr. Swanson will attend.

Mayor Anderson stated that he had received the appraisals for the lots owned by Mr. Adair and he would like to sit down with Mr. Adair to try to put something together. Mr. Swanson said he would approve of the Mayor talking to Mr. Adair and bringing a proposal back to the Council. Mr. Arends said he would like someone to talk to Gordy Haglund about his lots also. Mayor Anderson said he will also discuss trading the old fire hall for the end lot on Adair's property.

Three bids were received for the 1988 Ford police car. Mayor Anderson opened the bids and they were: Don Granlund for 200 hours of community work; William Kallies for \$676.50; and Geraldine Arends for \$1,425.00. MOTION NO. BR-08-93 WAS MADE BY C. MILLER AND SECONDED BY D. SWANSON TO ACCEPT THE BID OF \$1,425.00 FROM GERALDINE ARENDS FOR THE 1988 FORD CAR. MOTION PASSED WITH L. ARENDS ABSTAINING.

**PLANNING AND ZONING** - Coordinator Teri Hastings informed the Council that the person to whom the "Deck Violation" was placed on the agenda for, would not be available and would like to have it placed on the next agenda. MOTION NO. BR-09-93 WAS MADE BY C. MILLER AND SECONDED BY L. ARENDS TO POSTPONE HEARING THE MCGLYNN DECK VIOLATION UNTIL THE SEPTEMBER COUNCIL MEETING. MOTION PASSED UNANIMOUSLY.

Coordinator Hastings stated the Roger Ocell has appealed the denial of his variance to reconstruct the present structure, to be 28' wide and 38' deep plus a 10' deck and the current set back of 50'. Ms. Hastings stated that notices were sent out to all persons within 300 feet of the applicants property and responses had been received from Blue Acres Green Association, Gordon and Bonnie Addington, and Don and Joyce Armon in favor of granting the variance. These letters were read into the record. Ms. Hastings also read a letter from Roger Ocel with additional information and background for his request. Some of Mr. Ocel's reasons for requesting the variance were: (1) to help maintain the privacy by having the homes staggered like present rather than in a straight line; (2) several large mature trees would not have to be cut; (3) he has approval of the entire Association; and (4) the set back would be no different than it has been for forty-years. Mr. Miller stated that some of this information was not available for the Planning and Zoning Commission and some of the subdivided resorts which creates unique plats and unique situations which must be individually handled. MOTION NO. BR-10-93 WAS MADE BY C. MILLER AND SECONDED BY LYLE ARENDS TO APPROVE VARIANCE NO. 94-14 FOR ROGER OCEL TO BUILD A HOUSE AT THE CURRENT SETBACK BECAUSE OF NEW INFORMATION WHICH WAS SUBMITTED. Mr. Swanson asked Mr. Ocel to speak in behalf of his request which Mr. Ocel did. Mayor Anderson said he would not like to see the trees cut or the design of the resort drastically changed. Mr. Swanson asked the distance

between the present buildings and was informed that it is 41' and 48' but if the building were to be moved back the buildings would be much closer. Hal Neff, Planning and Zoning Commission Member spoke saying that the Commission felt that with a total rebuild they felt the building should be set back to the required 75'. Mr. Neff stated that the Commission feels that the Minnesota Shoreline Standards must be followed and that there should be a hardship and the Commission did not feel that there was a hardship demonstrated. Mayor Anderson stated that the Ocel's could just rebuild 80 percent of the building and leave it exactly where it presently is but they came in with an honest request to rebuild. Mr. Miller stated that the purpose of the Board of Appeals was to review all information presented and he feels that it is a legally platted lot that was in existence when the Ordinance was passed.

Mr. Sandelin spoke to say that the Council should not only address the requirements for granting a variance but also consider the section of the Ordinance dealing with non-conforming uses which talks about the 80 percent rule and also requested that the Council set the record as to why they may be disagreeing with the Planning and Zoning Commission.

Mayor Anderson said he believes it is a hardship because Mr. Ocel cannot change or add on to it or build a new structure without permission from the Association.

Mr. Miller said as a member of the Council he feels the Variance should be granted because it is a reasonable request from reasonable people, and with the 80 percent rule he could simply rebuild 80 percent this year and the other 20 percent next year.

Two neighbors of Mr. Ocel's were present to say they have no problem with his building in the same location.

Comments from the Zoning Coordinator were that the Council should not consider economics but if the covenants will not allow Mr. Ocel to rebuild without additional the request should maybe go back to Planning and Zoning for review.

Mayor Anderson called for a vote on the motion at this point.  
MOTION PASSED WITH MEMBERS ANDERSON, ARENDS AND MILLER VOTING AYE AND SWANSON VOTING NAY.

Mr. Sandelin asked that the Council stated their reasons for overturning the Planning and Zoning decision.

Mr. Miller stated that because of the 80 percent rule and for a legally platted piece of property that was platted before the Ordinance that he feels it is a reasonable request to grant a variance to the Ocel's.

Mayor Anderson said his decision was based on the fact that there is no guarantee that the Ocel's would be able to acquire

additional property from the association to build further back.

Mr. Arends stated that there have been many variances granted for this reason and he thinks it should be granted.

Mr. Swanson stated that his reasons for voting against the variance is because of he did not feel that the position of hardship was fully satisfied. He felt that there were some other alternative that could have been pursued.

Mr. Ocel was informed that he would need to renew the variance if he did not build within six months but would need to go through the public hearing process after one year if building has not commenced.

Coordinator Hastings read the appeal of Variance No. 93-15 by W.B. Leyendecker to subdivide a piece of property leaving less than 100 feet at the building line. The Variance was denied according to Sec. 3.40, Subd. 3-A. Ms. Hastings stated that notices were sent out to all property owners within 350 feet of the applicants property. A note from Roger and Barb Beckers and one from Gene Ohneroge in favor of granting the variance were read into the record. A letter from the Leyendeckers was also read into the record. Ms. Hastings also read a letter from Surveyor Wallace F. Buckler.

Mr. Miller stated that the new drawing submitted was in violation of the setback from the road. The 2 lots were each 100 foot wide at the plus 200 plus feet deep when platted. Mayor Anderson said that the an individual cannot create a substandard lot by subdivision. It was suggested that the Leyendeckers have the house moved which could make s buildable lots.

Mrs. Leyendecker stated that they did not live in the area at the time the house was built and it was placed wrong by the excavator.

It was the consensus of the Council that the house should be moved or land obtained from a neighbor but a substandard lot should not be created. MOTION NO. BR-11-93 WAS MADE BY C. MILLER AND SECONDED BY L. ARENDS TO UPHOLD THE DENIAL OF THE VARIANCE REQUEST BY LEYENDECKERS TO SUBDIVIDE THEIR LOT. MOTION PASSED UNANIMOUSLY.

Coordinator Hastings stated that she had discussed the amendments to the Ordinance with the City Attorney and she wanted to put them off until a later meeting. MOTION NO. BR-12-93 WAS MADE BY C. MILLER AND SECONDED BY L. ARENDS TO POSTPONE THE AMENDMENTS TO THE ZONING ORDINANCE. MOTION PASSED UNANIMOUSLY.

Professional fees for specific developments and who should be responsible for paying them were discussed briefly. Mr.

Sandelin stated that the costs should not be borne by the general fund or all taxpayers but by the specific developer or property owner. MOTION NO. BR-13-93 WAS MADE BY C. MILLER AND SECONDED BY L. ARENDS TO APPROVE THE RESOLUTION AS RECOMMENDED BY THE PLANNING AND ZONING COMMISSION REGARDING PROFESSIONAL FEES TO BE CHARGED TO THE PROPERTY OWNER/DEVELOPER. Discussion ensued. Mr. Swanson said he would like to have something to be assured that the developers costs do not become exhorbanant. MOTION PASSED UNANIMOUSLY.

Ms. Hastings stated that the Planning and Zoning Commission approved the rezoning request from Jim and Judy Cotton for part of Section 21, South of C.S.A.H. #3 from Commercial to Multi-family Residential (R-5). Discussion indicated that this rezoning would be for the purpose of building a duplex and would be a continuation of other R-5 zoning. The front portion of this land (abutting the highway) is to remain Commercial. A Sketch of Description from Landecker and Associates, Inc. and dated August 8, 1993 was presented. MOTION NO. BR-14-93 WAS MADE BY D. SWANSON AND SECONDED BY C. MILLER TO APPROVE THE REZONING OF A PORTION OF THE S.E. 1/4 OF THE N.W. 1/4 OF SECTION 21, SOUTH OF C.S.A.H. #3 FROM COMMERCIAL TO MULTI-FAMILY RESIDENTIAL (R-5). MOTION PASSED UNANIMOUSLY.

Coordinator Hastings indicted that the Council had received information on Fawn Point whereby they have an opportunity to appeal if they do not approve of the concept.

**PUBLIC SAFETY** - Mayor Anderson stated that the Brainerd Rural Fire Department is disbanding and has some hose for sale at \$1 a foot compared to \$2 a foot new. Mayor Anderson said he would recommend buying all that is good and usable and to take it out of the Capitol Improvement Fund. MOTION NO. BR-15-93 WAS MADE BY C. MILLER AND SECONDED BY L. ARENDS TO PURCHASE THE HOSE AT \$1 A FOOT AFTER THEY INSPECT IT TO MAKE SURE IT IS GOOD. MOTION PASSED UNANIMOUSLY.

Mayor Anderson indicated that the Fire Department responded to 10 medical and 3 fire calls for July.

Mayor Anderson read a letter from Jon Radebaugh praising the Fire Department and supporting a new fire hall.

Mayor Anderson read a letter from Police Chief John Backdahl regarding camping on the highway. John is working with the Corps of Engineers to get a sign up at night and check in in the morning system going.

**UTILITIES** - Liaison Arends stated that the Utilities Company does not own a reel trailer but must borrow one when they need one. MOTION NO. BR-16-93 WAS MADE BY L. ARENDS AND SECONDED BY C. MILLER TO APPROVE THE PURCHASE OF A REEL TRAILER FROM JTC SALES FOR \$5,300.00. MOTION PASSED UNANIMOUSLY.

MOTION NO. BR-17-93 WAS MADE BY L. ARENDS AND SECONDED BY C. MILLER TO PURCHASE 750 CALENDARS FOR THE TELEPHONE COMPANY AT A COST OF APPROXIMATELY \$3,300.00. MOTION PASSED UNANIMOUSLY.

Mr. Arends stated that a video system for Council meetings would cost approximately \$18,165 and a new sound system would be approximately \$3,800. It will be discussed again at next month's meeting.

Chairman Tom Towne indicated that the Cablevision Company has received many calls because the Vikings pre-season games were not being televised in Crosslake because the system does not receive KARE out of the Twin Cities and the cost would be \$25,000 to make it available. The season games will be shown locally.

**PUBLIC WORKS** - A letter from Widseth Smith Nolting and Associates regarding the new roadway at Ox Lake Crossing was discussed briefly. MOTION NO. BR-18-93 WAS MADE BY C. MILLER AND SECONDED BY D. SWANSON TO APPROVE THE CONTRACT WITH WIDSETH SMITH NOLTING AND ASSOCIATES TO INSPECT THE ROADWAY IN OX LAKE CROSSING FOR \$3,600. MOTION PASSED WITH L. ARENDS VOTING NAY.

**LONG RANGE CAPITOL PLANNING** - Nothing.

**CEMETERY** - Mayor Anderson thanked the public works department saying that the Cemetery looks beautiful.

**PERSONNEL** - Mayor Anderson set up a committee of a representative from the Utilities Company, the City Clerk, Councilman Swanson and himself to review hospital proposals.

A special council meeting was set for Monday, August 23, 1993 at 10:00 a.m.

**PARK AND RECREATION** - Liaison Swanson stated that there was an electrical problem at the Community Center which could have been a potential cause for a fire.

**RECYCLING** - Liaison Swanson stated that the July recycling day was the largest ever with 163 people participating. He also mentioned that the Committee is submitting a proposal to the County for funding for 1994.

**NEW BUSINESS** - A resident who had requested that he be given a spot on the agenda to discuss handicapped access for local businesses was not present.

A resident asked to have Crosslake adopt the highway clean-up program. It was the consensus of the Council that the majority of the City streets are County Roads and the County is responsible for them and in most residential areas the residents keep the streets picked up.

The same resident asked to have the lakes in the City placed under City jurisdiction. Mayor Anderson explained that the lakes are under the County Sheriff's control. It was suggested that this gentleman get a committee together, bring a proposal back to the Council and the Council will review it for submission to the County. Discussion continued.

OLD BUSINESS - Nothing.

PUBLIC FORUM - Nothing.

MOTION NO. BR-19-93 WAS MADE BY L. ARENDS AND SECONDED BY C. MILLER TO ADJOURN THIS REGULAR COUNCIL SESSION AT 10:05 P.M. MOTION PASSED UNANIMOUSLY.

Recorded and transcribed by:

Arlene A. Buchite, City Clerk/Treasurer

