

SPECIAL COUNCIL MEETING
TUESDAY, SEPTEMBER 7, 2004
1:00 P.M. – CITY HALL

Pursuant to proper notice and call, the City Council met in a special session on Tuesday, September 7, 2004 at 1:00 P.M. The following Councilmembers were present: Mayor Darrell Swanson, Dean Eggena, Bettie Miller, Dick Phillips and Irene Schultz. Also present was City Administrator Tom Swenson, Park and Recreation Director Jon Henke, Public Works Director Ted Strand, Community Development Director Ken Anderson, City Attorney Paul Sandelin, City Engineer Dave Reese and Clerk/Treasurer Darlene Roach. There were seven individuals in the audience.

1. Mayor Swanson called the meeting to order at 1:00 P.M. and stated that the Council had a few items to act on prior to moving into the budget meeting.

2. The first item on the agenda was discussion regarding Cool Haven Lane – Mayor Swanson stated that he would not participate in any discussion regarding this matter and would only serve as chair on the issue. Community Development Director Ken Anderson stated that the Council has had several discussions regarding this issue going as far back as September 2003. The preliminary plat shows 15' of right-of-way in addition to the improved roadway. Doug Peterson fee owner for 12' of the property for which the City issued a driveway permit is disputing the rights of the property owner to cross his property. In 1990, the City received an easement from all of the property owners adjacent to Cool Haven Lane which was stated as a perpetual non-exclusive easement. A party is now interested in purchasing the spec home that was constructed by the owner of the property that was issued the driveway permit. Correspondence related to this issue include a letter dated August 31st to City Attorney Paul Sandelin from Ted Pederson of Shores & More Realty; a September 7th letter to the City Council from Attorney Gerry Brine, representing the Elsin's; an April 13th letter to Gerry Brine from Attorney Bruce Bundgaard, representing Mr. Peterson; a memo to Attorney Sandelin dated August 17th from Ted Pederson and an email dated August 27th from Lori Elson to Ken Anderson and Tom Swenson regarding a formal complaint against Doug and Kelli Peterson. Also included for Council information is a copy of the plat map showing Cool Haven Road as it pertains to this property and a copy of the easement granted to the City. Copies of minutes from prior meetings were also provided to the Council.

City Attorney Paul Sandelin stated that the City Council reviewed this argument in December and the easement shows 40' on the Peterson side of the property and 40' on the other side of the roadway. Sandelin does not feel that the decision made in December will be any different today. Councilmember Miller asked where the driveway was located and she was informed it is located on the westerly side of the lot. Councilmember Phillips asked why the issue was being re-hashed again today and Sandelin stated because of the signage that has been placed in the right-of-way. City Administrator Swenson asked if the problem exists because neither the easement nor the City has defined the location of the 40' right-of-way. City Attorney Sandelin stated that was the problem and advised the Council to declare where the easement is situated on the

Peterson property. Community Development Director Anderson stated that the Council is also re-hearing the issue because the buyer wants to get the boundary issue resolved and Mr. Peterson may be interested in dedicating the property to the City.

Mayor Swanson stated that the Council will hear the complaint first. Gerry Brine, Attorney for the Elsin's, addressed the Council and stated that there is a mechanism to use if the Peterson's want the easement defined. Brine stated that he has prepared a letter for the Council which would help in the deliberation. Mr. Peterson addressed the Council and stated that he brought to the attention of Mr. Malecha, the developer of the plat, that they owned the 12' to 15' between the easement. Peterson stated that an easement was given to the City which was for utility and roadway purposes, not for a right for personal property owner use. He stated that he feels the easement does not give any other party, except the City, the right to use this property. Mr. Peterson stated that he proposed donating the property to the City in December in exchange for a tax consideration and this offer still stands. City Administrator Swenson asked if this donation would include the entire 40'. Mr. Peterson stated it would include the property at issue which is located south of the roadway. Councilmember Eggena asked Mr. Peterson what donation amount he was requesting. Mr. Peterson stated that he hired a firm to appraise the property last year, but this value is no longer valid. No amount was specified. City Attorney Sandelin stated that if the Council were to take the position that the public cannot use this area, then why would the City take only the 12' and not the full 40'. It was the recommendation of Attorney Sandelin that the Council identify the location of the 40'. It was noted that Mr. Peterson was at the assessment hearing dealing with the road improvements and the issue never came up that the property owners don't have access to the road and should not pay an assessment. Councilmember Eggena asked City Attorney Sandelin who's property a person would be on if they stepped off the blacktop. City Attorney Sandelin stated that he does not believe the City would accept an easement and not allow the public to use it. City Attorney Sandelin stated that the 40' should be clarified for purposes of conveyance. Councilmember Eggena asked if the City could condemn the property and Sandelin stated that could be done and what is determined as value is what Mr. Peterson would be compensated for. Councilmember Schultz stated that she would not agree with condemnation proceedings at this point. It appears that the options available to the Council are as follows: (1.) The Council could rule the same as was done in December; (2.) The Council could clarify the location of the 40' and identify this on an easement which could be conveyed to the City; or (3.) begin condemnation proceedings and "quick-take" the property. Councilmember Schultz asked what the Council could do to eliminate the signage problems. Sandelin stated that the City needs to work with the property owner and ask him to consider the 40' conveyance. City Administrator Swenson asked if the City could make a clarification of the 40' without the involvement of Mr. Peterson and Sandelin stated they could if the Statute allows.

MOTION 09S-01-04 WAS MADE BY DEAN EGGENA AND SECONDED BY IRENE SCHULTZ TO DECLARE THE SOUTH 40' OF THE PETERSON PROPERTY ALONG COOL HAVEN LANE AS THE PERPETUAL NON EXCLUSIVE ROADWAY AND UTILITY EASEMENT GIVEN BY MICHAEL J. AND GAIL E. ONDRESKY ON SEPTEMBER 27, 1990 AND RECORDED IN THE OFFICE OF THE COUNTY RECORDER, CROW WING COUNTY ON DECEMBER 12, 1990 AND TO

DIRECT THE POLICE DEPARTMENT TO ENFORCE THE CITY'S SIGN ORDINANCE ALONG THIS EASEMENT. MOTION CARRIED WITH COUNCILMEMBERS EGGENA, MILLER, PHILLIPS AND SCHULTZ VOTING AYE AND MAYOR SWANSON ABSTAINING FROM THE VOTE.

3. City Attorney Legal Opinion regarding reimbursement to Crosswoods Development – A letter dated September 7, 2004 from City Attorney Sandelin provided a legal interpretation of the agreement between the City and Crosswoods Development to reimburse the developer for the installation of the sanitary sewer collection line and service stubs within the development. The City Council approved the Specific Implementation Plan for the development on September 11, 2000 in which the City and the Developer agreed that sanitary sewer would serve the development. Since the City was not in a position to install the utility in a timeframe that would coincide with the developer's construction plans, it was agreed that the sewer utility could be installed by the developer and be reimbursed by the City. The SIP also provided that the roads located within the development would remain private until such time as the City within its discretion would accept the roads for maintenance. The City did not accept the roads, based upon a recommendation from the Public Works Commission due to difficulties with snow removal based upon the design of the road. Hence, the developer agreed to be responsible for road maintenance and snow removal in order to maintain the design for the roads. Subsequent to these agreements, on October 4, 2000, the Developer entered into a Development Agreement that outlined the terms and conditions for installation of utilities and other improvements within the development. The agreement provided that the developer convey to the City a utility easement for those areas where sanitary sewer collection lines and sewer stubs were to be located and that the sewer utility was to be constructed to City standards and that all associated connection and user charges would apply. After the sewer utility was completed within the development, the City ultimately agreed to an amount to reimburse the developer for the cost of installation of the sewer utility. This is the motion referenced from the meeting of August 28, 2003 which was reviewed at the meeting of August 30, 2004. City Attorney Sandelin stated that this agreement does not require a similar agreement with other property owners or developers within the City as expressed during the August 30th meeting. Councilmember Eggena asked if funds were available in the sewer bonding to pay this cost and City Administrator Swenson stated that the funds are available. Councilmember Phillips asked why the amounts changed from \$73,000 to \$90,000 and City Administrator Swenson stated that initially the cost was \$110,000 but the City negotiated the reimbursement based on Hammerlund's prices and settled on the \$90,181.04. City Engineer Dave Reese stated that the lower cost initially was a result of estimating the de-watering costs lower than what they were. MOTION 09S1-02-04 WAS MADE BY BETTIE MILLER AND SECONDED BY IRENE SCHULTZ TO REIMBURSE CROSSWOODS DEVELOPMENT \$90,181.04 PLUS \$1,950 CONTINGENT UPON THE CITY ENGINEER SENDING THE CITY A LETTER THAT THE TELEVISIONING TAPE HAS BEEN REVIEWED AND IS IN ORDER. MOTION CARRIED WITH ALL AYES.

4. Approve Bills for Payment – MOTION 09S1-03-04 WAS MADE BY DEAN EGGENA AND SECONDED BY BETTIE MILLER TO APPROVE THE BILLS FOR PAYMENT AS SUBMITTED IN THE AMOUNT OF \$57,692.47. MOTION CARRIED WITH ALL AYES.

5. Approve payment of Park Dedication Fees for Aulik Metes and Bounds – Community Development Director Ken Anderson stated that the Planning and Zoning Commission recently approved a metes and bounds subdivision for Laura Aulik for a lot that fronts on Velvet Lake adjacent to County Road 36. The value of the property is \$201,000 of which 10% of the value would be \$20,100. Since the maximum fee per lot for park dedication purposes is \$5,000, acceptance of cash in lieu of land in the amount of \$10,000 is requested. The Park and Recreation Commission and Planning and Zoning Commission both agree that cash be accepted in lieu of land for park dedication purposes. MOTION 09S1-04-04 WAS MADE BY DEAN EGGENA AND SECONDED BY IRENE SCHULTZ TO ACCEPT CASH IN THE AMOUNT OF \$10,000 IN LIEU OF LAND FOR LAURA J. AULIK, METES AND BOUNDS SUBDIVISION 2004-007. MOTION CARRIED WITH ALL AYES.

A five minute recess was taken.

At 2:10 P.M., the meeting reconvened and Community Development Director Ken Anderson presented the 2005 proposed fee schedule recommended by the Council at the August 25th budget meeting along with a comparison of fees using the County fee schedule as compared to the City's fee schedule for permits issued in the City between July and August of this year. This comparison shows that Crosslake's revenues are roughly 44% of the revenues received by Crow Wing County for similar permit applications. The most dramatic difference is in the smaller sized building projects and additions. Discussion ensued regarding changing to the County's fee schedule or adopting the proposed 2005 revised schedule based on using the square foot methodology. City Administrator Swenson stated that the fee schedule needs to be approved in resolution form and could be adopted at the October meeting. The Council will review the fee schedule between now and the next meeting.

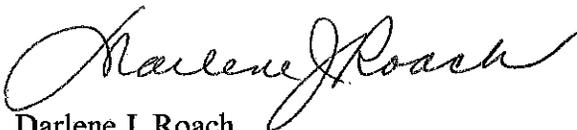
6. Discussion regarding the 2005 budget – City Administrator Swenson presented a comparison between the 2004 adopted revenue budget of \$2,859,278 and the proposed 2005 revenue budget of \$3,110,548 and the 2004 adopted expenditure budget of \$2,859,278 and the proposed 2005 expenditure budget of \$3,110,548. This would represent an 8.8% increase in 2005 as compared to 2004. It was noted that the expenditure budget is up \$104,135 while the revenues are down \$134,841. Swenson stated that property owners are paying off assessments and we're going down in cash in the Debt Service Fund because of not receiving the interest on the assessments. Swenson spoke with Monty Eastvold of Northland Securities and he has agreed to do a debt management study and issue a report to the City on the status of the City's debt as it relates to the road projects. In a memo to the Council dated September 3rd, City Administrator Swenson presented some ideas for Council consideration in an attempt to lower the levy. These items consist of including \$40,000 in the 2005 budget from the

sale of the Public Works Building (\$60,000 of the projected sale price of \$100,000 is included in the 2004 budget). An operating transfer of \$50,000 from Sewer Project Fund to the General Fund and a reduction of \$40,000 in the Public Works Capital Outlay Budget. This could potentially increase a future bond issue by \$40,000 but would lower the levy for 2005. The estimates from Crow Wing County for increases in the market value and tax capacity for new construction should generate an additional \$43,000 in additional taxes. This will impact the spread levy and bring the proposed spread levy increase on the existing tax base to \$122,720 for an increase of 6.4%. Councilmember Eggena stated that he could justify the difference between the bond for sewer for capitalized interest and using contingency funds from the Sewer Fund as a transfer to the general fund. Mayor Swanson also supported this concept. Councilmember Eggena also stated that he would not vote for putting one inch of additional pipe in the ground until everything is paying for itself. There was some discussion regarding establishing a wastewater management district and Councilmember Eggena stated that he would like to see the City put \$20,000 into the budget for this effort. Discussion ensued regarding leaving the spread levy increase at 6.4% or trying to lower it and Councilmember Schultz stated that we should leave the proposed levy as it is so we have some cushion.

The next budget meeting was set for Friday, September 10th at 1:00 P.M.

MOTION 09S1-05-04 WAS MADE BY BETTIE MILLER AND SECONDED BY IRENE SCHULTZ TO ADJOURN THIS SPECIAL COUNCIL MEETING AT 3:40 P.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by,



Darlene J. Roach
Clerk/Treasurer

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