

BRITA LANE/PINE VIEW LANE FINAL ASSESSMENT HEARING
CITY OF CROSSLAKE
NOVEMBER 27, 2006
7:45 P.M. – CITY HALL

Pursuant to proper notice duly given as required by law, the City Council met in the Chambers of City Hall for the final hearing on the improvement to Brita Lane/Pine View Lane. Present at the hearing was Mayor Jay Andolshek and Councilmembers Dick Phillips, Terry Curtis and Dean Swanson. Absent was Councilmember Dean Eggena. Also present was City Administrator Thomas Swenson, City Engineer Dave Reese, City Attorney Paul Sandelin, Public Works Director Ted Strand, Community Development Director Ken Anderson, General Manager Paul Hoge and Deputy Clerk Charlene Nelson. There were approximately seven individuals in the audience in addition to Staff. (Sign in sheet attached as a permanent part of the minutes.)

Mayor Andolshek called the public hearing to order at 7:45 P.M. and stated that the purpose of the hearing was to take questions and public comments regarding the assessment proposed for Brita Lane/Pine View Lane.

City Administrator Tom Swenson read the Affidavit of Mailing confirming that the notice of final assessment hearing was deposited in the U.S. Post Office on November 16, 2006 enclosed in a prepaid envelope along with the record of assessment showing the proposed cost to each benefiting property owner along with a Project Summary. Property owner names and addresses were obtained from the Crow Wing County Auditor's Office most recent database provided to the City. On November 9, 2006 the Notice of Final Assessment Hearing was published in the City's official newspaper, the Lake Country Echo. Tom Swenson reported that two letters regarding this road project were received. One letter was hand delivered on November 21, 2006 by Michelle Schmidt and the other letter was hand delivered on November 22, 2006 by Dean Spencer. Each letter was read into the record.

City Engineer Dave Reese presented the project summary for the road improvement project. Reese stated that the project came in slightly higher than what was estimated during the feasibility study. Widseth Smith Nolting estimated the cost of the project at \$176,800 with 26.5 equivalent lots for an estimated assessment of \$6,680 per lot. The actual cost came in at \$183,053.00. Because this non-maintained road was petitioned by the homeowners to be improved, the City's share of the cost of the road is \$3,000.00 for changes in design. The 27.5 equivalent lots will each receive an assessment of \$6,547.38 per equivalent lot.

The hearing was open to the Council and public for questions. Dean Spencer of 33994 Pine View Lane addressed the Council and asked that his letter be taken into consideration. In his letter dated November 22, 2006, Mr. Spencer stated that he believed the road improvement should be assessed only 50% to the property owners and 50% to the City of Crosslake. The reason he feels this would be fair, is that in 2002 the City blacktopped half of Johnson's Pine View Plat and only assessed those residents 50% of the total cost. Mr. Spencer believes that the only reason a portion of the road was improved in 2002 was because a City employee lived there at the time. Mr. Spencer

urged the Council to only charge the property owners 50% of the total project cost. Tom Swenson explained that when the City adopted the road improvement ordinance, a distinction between maintained and non-maintained roads was made. The Council in 2002 determined that only a portion of Shafer Road was maintained by the City and only that portion would be assessed 50/50 to the City and the property owners. Dean Spencer stated that Pat Hoag, former Public Works Director, was almost fired for trying to maintain the whole road and was directed to only maintain the road up to the other City employee's property. Dean Swanson stated that an inventory of all City roads was done in 1999 to determine whether they were City maintained or not. Terry Curtis questioned why the maintenance of a road determines the cost of improvements. Tom Swenson replied that the City obtains a prescriptive easement on the road after so many years of maintaining it. Attorney Sandelin stated that the City is correctly following its ordinance. Paul Hoge added that once a utility company receives an easement for installation, they can upgrade and maintain the equipment forever. Dean Swanson added that a policy needed to be in place and this is what that Council decided at that time.

Michelle and Ron Schmidt of 38287 Ox Lake Landing addressed the Council and stated that they own vacant land at the end of Brita Lane. They are opposed to being assessed for the road improvements on Pine View Lane and Brita Lane. They argued that the road improvement was intended for Johnson's Pine View Plat, which their property is not a part of. Michelle Schmidt noted that they offered to sell the City 33-feet for a road, but that the City did not accept the offer because they wanted 66-feet. Michelle Schmidt argued that her family will never use the improved road because they access their property from County Road 36. Terry Curtis asked if the Schmidt's were assessed for 1 lot because the road touches their 4½ acres. Tom Swenson replied that was correct and that Tony Marks was also assessed for 1 lot because the road touches his 23 plus acres. Terry Curtis stated that if the land was never developed, he could agree that no assessment should be given. Mr. Curtis continued that the land could be subdivided at some point and it is good road planning to connect roads in new plats and suggested that the City assess the property owner if and when the land is developed. Tom Swenson stated that several lots could be created from the 4½ acres which could utilize the road and the City was generous with giving the Schmidt's only 1 assessment. Attorney Sandelin stated that the City could not recapture the road improvement costs if the land is developed in the future. Terry Curtis stated that there is room for interpretation regarding this matter.

Dean Spencer addressed that Council again and asked if it was fair that the Schmidt's won't pay anything now and the rest of the property owners still will be assessed 100%. He argued that the Council is changing the rules all the time. Mr. Spencer asked if he was still going to have to pay 100% of the assessment. Terry Curtis replied that the Council had already decided that the property owners would be assessed 100% but they have not made a decision on Schmidt's matter. Dean Swanson stated that this Council inherited the ordinance and this Council must now do its best to interpret it. Terry Curtis added that whether the Schmidt's and Marks' property should be included in the assessment is a gray area and difficult to determine. Dick Phillips stated that there should be an easier system. Tom Swenson stated he wished the system was easier and noted that every road project is unique. Attorney Sandelin stated that if the assessment project did not include the abutting property owners, that would have to be explained by the Council

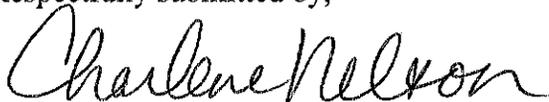
also. Terry Curtis stated that his opinion is that he would support a change to the ordinance but that a change could not be made tonight. Michelle Schmidt again argued that she would never benefit from this road project. Tom Swenson disagreed and stated that the road abuts both the Schmidt and Marks property and therefore benefits each property. Dick Phillips asked if the Council has ever excluded abutting property owners from an assessment. Tom Swenson and Dave Reese replied that they could not recall a time when abutting property owners were not assessed. Terry Curtis stated that he does not agree with the system but the Council should be consistent. Attorney Sandelin stated that believing there is no benefit to a property owner does not change the City's policy.

Tom Swenson stated that if the City were to pay the legal and administrative fees associated with the project, the Council could reduce each assessment to \$6,000. Terry Curtis proposed that if the City were willing to pay approximately \$14,600 in legal and administrative costs, it would be just about the same to relieve the Schmidt's and Marks' of their assessments at a cost of \$13,000. Tom Swenson argued that only 2 property owners would benefit from that compromise. Terry Curtis stated that the Council will be in the doghouse either way. MOTION PH5-11-01-06 WAS MADE BY TERRY CURTIS AND SECONDED BY DEAN SWANSON TO APPROVE RESOLUTION NO. 06-56 ADOPTING ASSESSMENT FOR BRITA LANE/PINE VIEW LANE WITH THE FOLLOWING CHANGE: REMOVE SCHMIDT'S AND MARKS' FROM THE ASSESSMENT ROLL AND HAVE THE CITY PAY \$13,094.76 FOR THOSE TWO ASSESSMENTS. Dick Phillips stated that this compromise will be equivalent to the cost of paying the administrative and legal fees. Mr. Phillips asked where the \$13,000 will come from to pay the assessments. Tom Swenson replied that the City would have to levy for the amount of the assessments next year. MOTION CARRIED WITH ALL AYES.

Mary Zook of 12388 Sunset Drive addressed the Council again and stated that she was disappointed with the Council's actions tonight. Ms. Zook asked the Council to reconsider her assessment on Sunset Drive because she does not benefit from the improvement. Terry Curtis explained that Ms. Zook's assessment was already paid by the previous owner of the property at the time of the sale in July. Attorney Sandelin added that once the assessment was accepted by the Council this evening, the funds from the escrow will be paid. Mary Zook apologized for not understanding the process.

MOTION PH5-11-02-06 WAS MADE BY DEAN SWANSON AND SECONDED BY DICK PHILLIPS TO ADJOURN THIS FINAL ASSESSMENT HEARING AT 9:10 P.M. MOTION CARRIED WITH ALL AYES.

Respectfully submitted by,



Charlene Nelson
Deputy Clerk

RESOLUTION 06-56
RESOLUTION ADOPTING ASSESSMENT

WHEREAS, pursuant to proper notice duly given as required by law, the council has met and heard and passed upon all objections to proposed assessment for the improvement of Brita Lane from the intersection of Pine View Lane, west, to the end of the cul-de-sac, the entire length of Pine View Lane, and approximately 200 feet of Shafer Road from the intersection of Pine View Lane, west, to the existing bituminous surface.

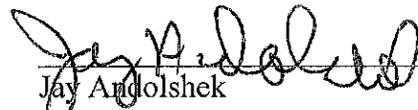
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CROSSLAKE, MINNESOTA:

1. Such proposed assessment, a copy of which is attached hereto and made a part hereof, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.
2. Such assessment shall be payable in equal annual installments extending over a period of 10 years, the first of the installments to be payable on or before the first Monday of January 2007, and shall bear interest at the rate of 5.5% per annum from the date of the adoption of this assessment resolution. To the first installment shall be added interest on the entire assessment from the date of this resolution until December 31, 2006. To each subsequent installment when due shall be added interest for one year on all unpaid installments.
3. The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the City Administrator, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this resolution; and he/she may, at any time thereafter, pay to the County Auditor the entire amount of the assessment remaining unpaid, with interest accrued to December 31st of the year in which such payment is made. Such payment must be made before November 15th or interest will be charged through December 31st of the next succeeding year.
4. The Administrator shall forthwith transmit a certified duplicate of this assessment to the County Auditor to be extended on the property tax list of the County. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

Adopted by the Council this 27th day of November 2006.



Thomas N. Swenson
City Administrator



Jay Andolshek
Mayor

