

SPECIAL COUNCIL MEETING
CITY OF CROSSLAKE
TUESDAY, DECEMBER 23, 2003
10:00 A.M. - CITY HALL

Pursuant to due notice and call, the Council for the City of Crosslake met in a Special Session on Tuesday, December 23, 2003 at 10:00 A.M. at the Joint Public Works Facility. The following Councilmembers were present: Mayor Darrell Swanson, Dean Eggena, Chuck Miller, Dick Phillips and Irene Schultz (who arrived at 10:10 A.M.). Also present was City Administrator Tom Swenson, Park and Recreation Director Jon Henke, Community Development Director Ken Anderson, Sergeant Erik Lee, City Engineer's Dave Reese and Jeff Miller, City Attorney Paul Sandelin and Clerk/Treasurer Darlene Roach. There were four other individuals in attendance.

1. Mayor Swanson called the Special Meeting to order at 10:00 A.M.
2. Review/approve Amendment to Liquor Ordinance - City Attorney Paul Sandelin prepared an update to the Liquor Ordinance which clarifies Section 4.60 as it relates to the requirement for On-Sale and Off-Sale licensees engaging in business for at least 48 weeks of the calendar year. Sandelin stated that the intent of the Ordinance was to require this for only On-Sale Intoxicating and Off-Sale Licenses. MOTION 12S2-01-03 WAS MADE BY CHUCK MILLER AND SECONDED BY DICK PHILLIPS TO APPROVE ORDINANCE AMENDMENT NO. 186 AMENDING CHAPTER 4 OF THE CITY CODE REGARDING LIQUOR SALES AND HOURS AND TO PUBLISH A SUMMARY OF SAID ORDINANCE. MOTION CARRIED WITH ALL AYES.
3. Review request to deed land for right-of-way adjacent to Cool Haven Lane – Community Development Director Ken Anderson presented a proposal from Doug and Kellie Peterson (owners of property in the Cool Haven Shores Plat) to convey a quit claim deed to the City of Crosslake for property situated in the plat adjacent to Cool Haven Road. The purpose of the conveyance will be to allow two lots in the Cool Haven Shores Plat (Lots 3 and 4) to locate their driveways with access directly to Cool Haven Road. The Peterson's are the underlying fee owners of the property and object to the private property owners crossing their property without compensation. If the City accepts the charitable donation (which has an appraised market value of \$67,500) and agrees to provide the Peterson's with a Noncash Charitable Contribution Form acknowledging the donation (IRS Form 8283) and are in receipt of monetary compensation from the benefiting property owners (or other interested parties) to offset legal and appraisal costs, the Peterson's position is that the property could be deeded to the City and driveways constructed by the adjacent property owners.

Community Development Director Ken Anderson stated that in 1990 the City obtained 40 ft easements along each side of the north property line of Cool Haven Shores plat. The City accepted the road and started road maintenance and improvements during the same time period upon receipt of the easements. In 2001, the road was improved with a bituminous surface and costs were assessed

to the Peterson's, to Ken Malecha (the developer of the Cool Haven Shores plat) as well as other adjacent property owners. The Peterson's assert the easements for road and utility purposes do not grant the private property owner's driveway access rights to Cool Haven Road. The property in question consists of approximately 12 feet in width.

A memo to Ken Anderson from City Attorney Paul Sandelin states that he has reviewed the plat and the issue raised by the Peterson's attorney, and concludes that the easements acquired by the City, and recorded in 1990, cover the property in question and do allow for driveway rights by the property owners of Lots 3 and 4. According to Attorney Sandelin, the rights of the parties to an easement are to be determined from the language of the easement and the intent of the parties. An assumption is made that the easement/right of way was acquired in exchange for the City taking over the road much the same as a plat approved by the City, it is anticipated that abutting property owners would construct driveways within the easement/right of way to access a now public road. Sandelin stated that common sense would suggest that driveways would have been contemplated for access to the road when the city acquired the easement deeds from the grantors. According to Attorney Sandelin, there is nothing in the easement that would specifically prohibit the City from processing an application for a driveway permit from the lot owners within the Cool Haven Shores Plat for purposes of accessing Cool Haven Lane/Road from the plat. Even though Peterson owns the underlying fee title subject to the right of way easement, it would not appear that a driveway from the Cool Haven Shores Plat was not intended nor would it appear to impair his use of that property. Any concern regarding access to the road from the plat should have been raised in the platting process, but was not. Attorney Sandelin further stated that it would not make sense for the City to acquire another easement or be a party to a transaction with Mr. Peterson that would only benefit Mr. Peterson, by way of a tax deduction.

Mr. Peterson addressed the Council and stated that he has been a Crosslake property owner for twelve years. He stated that his neighbors, the Elsin's and Novak's have cut down trees that are on his property in order to construct a road. As a means of resolving the issues between the neighbors, Mr. Peterson stated that he had an appraisal done and would agree to donate the 12' strip of land to the City. Attorney Sandelin stated that primarily what is before the Council is an issue between two property owners. The City's only concern is with the driveway permit which has been applied for by the Elsin's. Sandelin stated that the City could have paved an 80' road and that would have solved the problem, but that would not be feasible or cost effective. City Attorney Sandelin stated that he has reviewed all of the legal issues regarding this situation and does not feel that the City should get in the middle of property owner disputes. Sandelin stated that the offer before the City to accept an additional easement when the City already has one is unnecessary.

Councilmember Eggena feels the City does need to get involved to settle the problem with the neighbors because our platting ordinance requires 35' of right-of-way on a public road. Eggena asked Attorney Sandelin if the City has the right to put a road across the easement to the property line and Attorney Sandelin stated that would be within the rights of the City. City Administrator Swenson asked if it would be possible for the City to widen the road or make a turn lane. Councilmember Eggena

felt the City could widen the road by 12' and have 35' on both sides. Councilmember Phillips asked what would happen if the City did nothing and Councilmember Eggena stated that if the property owner goes to Court, the City will get involved. After some discussion by the Council, it appears there are three options: (1.) improve the driveway and take away Mr. Peterson's argument; (2.) do nothing which opens the door for private property disputes; or (3.) do what Mr. Peterson proposes. Councilmember Miller reminded the Council that Option 3 includes a payment of \$10,000 to Mr. Peterson for legal and appraisal fees. Mr. Peterson addressed the Council and stated that he has asked the balance of property owners to assist with the legal fees. Realtor Ted Pederson stated that he has obtained approval from the property owners to participate in the expenditures. City Attorney Sandelin agreed that while the City may not be a party to this issue, the City will become involved to an extent. Sandelin stated that paving the 12' would bring the issue to an end. Mr. Peterson again addressed the Council and stated that paving the road would result in additional expense for the City and that his property would be taken to benefit that of other property owners even though he is offering to donate the property to the City. He further stated there would be no reason to put a turn lane on a road that is already wide enough. Ted Pederson stated that he has spoken extensively with the property owners of Lots 3 and 4, who are innocent bystanders in this situation. If the City leaves the problem to the property owners to battle out, a real hardship will be created for the neighbors. City Administrator Swenson asked what precedence the City would be setting by accepting right-of-way within an easement the City already has. Councilmember Eggena stated that the City would not need to blacktop the road, but could leave it gravel. City Engineer Reese commented that in looking at all the other roads within the City, the property owner is required to have frontage for access to a public road. Mayor Swanson asked for direction from the City Attorney regarding the proposal from the Peterson's and it was agreed that this request would be dealt with separately from the road issue. MOTION 12S2-02-03 WAS MADE BY CHUCK MILLER AND SECONDED BY DEAN EGGENA TO REJECT THE PROPOSAL FROM DOUG AND KELLI PETERSON AS SUBMITTED. MOTION CARRIED 4-1 WITH MAYOR SWANSON ABSTAINING FROM THE VOTE DUE TO HIS DAUGHTER AND SON-IN-LAW'S PARTICIPATION IN THE SALE OF THE PROPERTY.

MOTION 12S2-03-03 WAS MADE BY DEAN EGGENA AND SECONDED BY CHUCK MILLER TO DIRECT THE PUBLIC WORKS DEPARTMENT TO WORK WITH THE CITY ATTORNEY AND THE CITY ENGINEER TO FIND THE LEAST EXPENSIVE WAY TO HAVE A ROADWAY TO EACH OF THE PROPERTY OWNERS IN THE PLAT THAT COMPLIES WITH THE ORDINANCE. MOTION CARRIED 4-1 WITH MAYOR SWANSON ABSTAINING FROM THE VOTE.

4. Bills for Approval – MOTION 12S2-04-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO APPROVE THE BILLS FOR PAYMENT AS SUBMITTED IN THE AMOUNT OF \$40,893.15. MOTION CARRIED WITH COUNCILMEMBER PHILLIPS VOTING NAY. Park and Recreation Director Jon Henke requested approval to replace the carpet at the Community Center as a 2003 expense with funds remaining in the 2003 budget. Bids were received from Becker's Floor Covering and Pine River Carpet. After

reviewing the carpet samples and bid prices, it is recommended that the carpet be purchased from Pine River Carpet as the low bidder. MOTION 12S2-05-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO APPROVE THE PURCHASE OF CARPET FROM PINE RIVER CARPET AT A PRICE OF \$3,241.28. MOTION CARRIED WITH ALL AYES.

5. City Administrator Swenson reviewed each of the nineteen year-end fund transfers with the Council. MOTION 12S2-05-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO APPROVE THE 2003 YEAR END FUND TRANSFERS. Councilmember Eggena asked if it was difficult to get money out of the accounts once they have been designated and City Administrator Swenson stated that these funds are accounted for differently from the funds Councilmember Eggena was referring to. These funds are placed in what the City defines as a Capital Improvement Fund and designated for specific projects. If a situation arose, where the City needed the funds, the Council could designate for a different use. MOTION CARRIED WITH ALL AYES. The Council will be provided with an updated Capital Improvement Fund report once the December books are final.
6. Review/Approve Final Plat for Sundance II, LLC - Community Development Director Ken Anderson stated that the matter before the Council was really a housekeeping item. The Developer is requesting approval of final 505 Plat "Sundance Ridge" which would allow the property to be divided into seven lots. The Planning and Zoning Commission and City Council previously approved the Condominium 515 Plat. City Attorney Sandelin commented that approval of the 505 Plat would serve as an interim plat that would be recorded. This would accommodate the financing company since it would identify the location of the buildings and provide a legal description of the property. MOTION 12S2-06-03 WAS MADE BY DEAN EGGENA AND SECONDED BY CHUCK MILLER TO APPROVE FINAL 505 PLAT AS AN INTERIM PLAT FOR SUNDANCE RIDGE. It was noted that no lots within the development will be sold under the 505 Plat but that they can be sold pursuant to the 515 Plat. Developer Stuart Swenson of Sundance II, LLC was present at the meeting to request approval and obtain the City's signatures on the 505 Plat. MOTION CARRIED WITH ALL AYES.
7. Review Feasibility Study's on 2004 Road Projects -- East Shore Boulevard -- At a meeting held on December 15, 2003, the Public Works Commission approved a motion to recommend to the City Council approval of a resolution to call for a hearing on the proposed improvements to East Shore Boulevard. City Engineer Dave Reese stated that the estimated project cost to improve this road with an 18' surface with a turn around at the end is \$33,790. Since this is a currently City maintained road, the cost would be split 50/50 between the City and the benefiting property owners. Since this is a City initiated project a 4/5ths vote of the Council is required in order to proceed. MOTION 12S2-07-03 WAS MADE BY DICK PHILLIPS AND SECONDED BY CHUCK MILLER TO APPROVE RESOLUTION 03-43 RECEIVING REPORT AND CALLING HEARING ON IMPROVEMENT FOR JANUARY 28, 2004 AT 6:00 P.M. AT CITY HALL. MOTION CARRIED WITH ALL AYES.

Edgewater Lane – At a meeting held on December 15, 2003, the Public Works Commission approved a motion to recommend to the City Council approval of a resolution to call for a hearing on the proposed improvements to Edgewater Lane. City Engineer Dave Reese stated that Edgewater Lane would be a 100% assessed project since the portion under consideration for improvement is a currently un-maintained road. The portion of Edgewater Lane that is maintained by the City will be improved as part of the Sewer restoration project. There are known drainage issues along this road that could be addressed if the road is improved. Since this would be a City initiated project, a 4/5ths vote of the Council is required in order to proceed. The estimated cost of the improvement is \$28,122 with 100% of the cost paid by the benefiting property owners. MOTION 12S2-08-03 WAS MADE BY CHUCK MILLER AND SECONDED BY DEAN EGGENA TO APPROVE RESOLUTION NO. 03-44 RECEIVING REPORT AND CALLING HEARING ON IMPROVEMENT TO EDGEWATER LANE FOR JANUARY 28TH AT 6:30 P.M. AT CITY HALL. MOTION CARRIED WITH ALL AYES.

Margaret Lane – At a meeting held on December 15, 2003, the Public Works Commission approved a motion to recommend to the City Council approval of a resolution calling for a hearing on proposed improvements to Margaret Lane. This road is a gravel road maintained by the City. The estimated cost of the improvement is \$18,900. Councilmember Eggena asked about the reparation of the road in front of Zorbaz and City Engineer Reese stated that Zorbaz is working with Hammerlund Construction on this segment of private road. MOTION 12S2-09-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO APPROVE RESOLUTION NO. 03-45 RECEIVING REPORT AND CALLING HEARING ON IMPROVEMENT TO MARGARET LANE FOR JANUARY 28TH AT 7:00 P.M. MOTION CARRIED WITH ALL AYES.

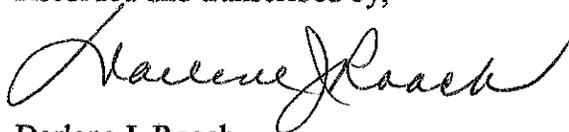
Gendreau Road – At a meeting held on December 15, 2003, the Public Works Commission reviewed the City Engineer's proposed commercial road standards for Gendreau Road and reduced the paved surface from 26 feet to 24 feet. A motion was then approved to recommend to the City Council approval of a resolution calling for a hearing on proposed improvements to Gendreau Road. City Engineer Reese stated that the reason for the commercial standard is due to the road serving an industrial area. The upgrade from residential to commercial would be assessed to the property owners at 100% on a front footage basis with the remainder of the cost of improvement split 50/50 with the City and property owners. MOTION 12S2-10-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO APPROVE RESOLUTION NO 03-46 RECEIVING REPORT AND CALLING HEARING ON IMPROVEMENT TO GENDREAU ROAD FOR JANUARY 28TH AT 7:30 P.M. Councilmember Eggena asked what road restrictions would be imposed in the Spring if the road was constructed to commercial standards. City Engineer Reese stated that the road has good drainage so there wouldn't be a saturated base which would allow for a 7 ton per axel load. Eggena recommended putting down additional Class 5 to strengthen the road. MOTION CARRIED WITH ALL AYES.

It was the consensus of the Council to set another meeting to review West Shore Drive and Daggett Pine Road. This meeting was set for January 5th at 3:00 P.M. at City Hall.

Mayor Swanson thanked the Staff and Council for all the work that was done in 2003. He stated that at times there were some good debates, but things went ahead with goodwill by all.

MOTION 12S2-11-03 WAS MADE BY CHUCK MILLER AND SECONDED BY IRENE SCHULTZ TO ADJOURN THIS SPECIAL COUNCIL MEETING AT 11:48 A.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by,



Darlene J. Roach
Clerk/Treasurer

SHARED/SPECIAL COUNCIL MEETING -- December 23, 2003.doc

BILLS FOR APPROVAL

23-Dec-03

VENDOR	DEPT	AMOUNT
Ace Hardware, tire seal	PW	29.77
Andy Anderson, 4th quarter meetings	P&Z	100.00
Applied Concepts, stalker vision camera	Police	3,675.00
Brainerd Lakes Area Chamber of Commerce, fireworks	Gov't	2,000.00
Cascade Computers, install new printer	Admin	127.49
Complete Title, owners and encumbrance report	Sewer	75.00
Crow Wing County Highway Dept, stop sign, posts	PW	42.53
Culligan, drinking cups	Gov't	19.17
Dacotah Paper, hand towels and dispensers	P&R	380.42
Darlene Roach, reimburse petty cash	Admin	49.66
Firemen's Relief Assn, city contribution	Fire	14,039.58
Frontline Plus Fire, firecoat	Fire	575.48
Frontline Plus Fire, brass adapter	Fire	312.48
George Riches, 4th quarter meetings	P&Z	25.00
Gerry Leinfelder, 4th quarter meetings	P&Z	25.00
Jack Huber, 4th quarter meetings	P&Z	75.00
James Bedard, appraisal services	PW	600.00
Johnson Killen & Seiler, november labor issues	Gov't	210.00
Jon Henke, reimburse petty cash	P&R	55.90
MacQueen Equipment, snow blower	PW	14,087.50
Mastercard, Fleet Farm, jeans, t-shirt	PW	98.95
Mastercard, Holiday Station, boots	PW	99.05
Mastercard, Office Max, label maker tape	PW	44.69
Mastercard, Walmart, socks, underwear, shirts	PW	42.29
MR Sign, no motor vehicles signs	P&R	160.92
Nancy Koch, 4th quarter meetings	P&Z	75.00
Quill, fireproof cabinet	P&Z	1,171.49
Richard Dietz, 4th quarter meetings	P&Z	100.00
Terry Curtis, 4th quarter	P&Z	100.00
The Office Shop - cassette tapes, lead, folders	P&Z & Adm	40.25
Tri-State Striping, interim striping of csah 66	Sewer	810.50
USA Bluebook - hex nipples	PW	42.20
Ziegler - Fenders w/mud flaps	PW	1,602.83
TOTAL		40,893.15

RESOLUTION 03-43

**RESOLUTION RECEIVING REPORT
AND
CALLING HEARING ON IMPROVEMENT**

WHEREAS, pursuant to Resolution of the Council adopted November 10, 2003 a report has been prepared by Widseth, Smith & Nolting with reference to the improvement of East Shore Boulevard from the intersection of East Shore Road, north, to the end of the road, by constructing road and drainage improvements, and this report was received by the Council on December 23, 2003.

WHEREAS, the report provides information regarding whether the proposed project is necessary, cost-effective, and feasible,

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

1. The Council will consider the improvement of such street in accordance with the report and the assessment of abutting and/or benefiting property for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$33,790.20.
2. A Public Hearing shall be held on such proposed improvement on the 28th day of January, 2004 in the Council Chambers in City Hall at 6:00 P.M. and the Administrator shall give mailed and published notice of such hearing and improvement as required by law.

Adopted by the Council this 23rd day of December, 2003.



Thomas N. Swenson
City Administrator



Darrell E. Swanson
Mayor

RESOLUTION 03-44

**RESOLUTION RECEIVING REPORT
AND
CALLING HEARING ON IMPROVEMENT**

WHEREAS, pursuant to Resolution of the Council adopted November 10, 2003 a report has been prepared by Widseth, Smith & Nolting with reference to the improvement of Edgewater Lane, within Lindquist Addition and adjacent to Block One, Lots I through 8, by constructing road and drainage improvements, and this report was received by the Council on December 23, 2003.

WHEREAS, the report provides information regarding whether the proposed project is necessary, cost-effective, and feasible,

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

1. The Council will consider the improvement of such street in accordance with the report and the assessment of abutting and/or benefiting property for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$28,122.00.
2. A Public Hearing shall be held on such proposed improvement on the 28th day of January, 2004 in the Council Chambers in City Hall at 6:30 P.M. and the Administrator shall give mailed and published notice of such hearing and improvement as required by law.

Adopted by the Council this 23rd day of December, 2003.



Thomas N. Swenson
City Administrator



Darrell E. Swanson
Mayor

RESOLUTION 03-45

**RESOLUTION RECEIVING REPORT
AND
CALLING HEARING ON IMPROVEMENT**

WHEREAS, pursuant to Resolution of the Council adopted November 10, 2003 a report has been prepared by Widseth, Smith & Nolting with reference to the improvement of Margaret Lane from the intersection of C.S.A.H. 66, west and south, to the end of the cul-de-sac, by constructing road and drainage improvements, and this report was received by the Council on December 23, 2003.

WHEREAS, the report provides information regarding whether the proposed project is necessary, cost-effective, and feasible,

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

1. The Council will consider the improvement of such street in accordance with the report and the assessment of abutting and/or benefiting property for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$18,982.00.
2. A Public Hearing shall be held on such proposed improvement on the 28th day of January, 2004 in the Council Chambers in City Hall at 7:00 P.M. and the Administrator shall give mailed and published notice of such hearing and improvement as required by law.

Adopted by the Council this 23rd day of December, 2003.



Thomas N. Swenson
City Administrator



Darrell E. Swanson
Mayor

RESOLUTION 03-46

**RESOLUTION RECEIVING REPORT
AND
CALLING HEARING ON IMPROVEMENT**

WHEREAS, pursuant to Resolution of the Council adopted November 10, 2003 a report has been prepared by Widseth, Smith & Nolting with reference to the improvement of Gendreau Road from the intersection of C.S.A.H. 36, south, to the intersection of Shafer Road, by constructing road and drainage improvements, and this report was received by the Council on December 23, 2003.

WHEREAS, the report provides information regarding whether the proposed project is necessary, cost-effective, and feasible,

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

1. The Council will consider the improvement of such street in accordance with the report and the assessment of abutting and/or benefiting property for all or a portion of the cost of the improvement pursuant to Minnesota Statutes, Chapter 429 at an estimated total cost of the improvement of \$60,427.95.
2. A Public Hearing shall be held on such proposed improvement on the 28th day of January, 2004 in the Council Chambers in City Hall at 7:30 P.M. and the Administrator shall give mailed and published notice of such hearing and improvement as required by law.

Adopted by the Council this 23rd day of December, 2003.



Thomas N. Swenson
City Administrator



Darrell E. Swanson
Mayor