

SPECIAL COUNCIL MEETING
CITY OF CROSSLAKE
WEDNESDAY, MARCH 23, 2011
10:00 A.M. – CITY HALL

The Council for the City of Crosslake met in the Council Chambers of City Hall on Wednesday, March 23, 2011. The following Council Members were present: Mayor Darrell Schneider, Steve Roe, John Moengen, Dean Swanson and Rusty Taubert. Also present were City Administrator Tom Swenson, Clerk/Treasurer Jenny Max, Community Development Director Ken Anderson, Police Chief Bob Hartman, Park and Recreation Director Jon Henke, General Manager Paul Hoge, City Attorney Mike Couri, Planning and Zoning Staff Lane Braaten and Bryan Hargrave, and Planning and Zoning Commission Members Mike Winkels, Dale Melberg and Gary Heacox. There were approximately six people in the audience.

1. Call to Order – Mayor Schneider called the Special Council Meeting to order at 10:00 A.M.
2. Bills for Approval – MOTION 03S1-01-11 WAS MADE BY RUSTY TAUBERT AND SECONDED BY JOHN MOENGEN TO APPROVE THE BILLS FOR PAYMENT AS SUBMITTED IN THE AMOUNT OF \$8,681.60. MOTION CARRIED WITH ALL AYES.
3. Mr. Anderson addressed the Council and provided a brief review of his memo regarding the outstanding Planning and Zoning Department issues. Mr. Anderson stated that staff would like to use this meeting as an opportunity to obtain policy direction from the City Council regarding a few of the specific “big picture” issues that have been problematic over the past few years. The staff and Planning and Zoning Commission consistently work to insure the state laws and local ordinances are met as applications are processed as they work with the public on a daily basis. Staff spends a great deal of time and energy insuring that the ordinance requirements are met. When there is the inevitable disagreement with a property owner, staff offers alternatives and options that will meet the ordinance standards. Mr. Anderson also stated that staff needs to know that the time, work, and resources invested by both the staff and Commission in meeting ordinance requirements will be fully supported by the City Council. If they are not supported by the City Council, then it undermines the intent of the ordinances and the integrity of the City of Crosslake, the efforts are not worthwhile in pursuing and they have the effect of creating a great deal of animosity between the property owners and other stakeholders. The City Council needs to clearly identify its policies and priorities and, most importantly, communicate those to staff and the Commission in order for everyone to be most effective. Ultimately, everyone must work together to insure the integrity of the City of Crosslake and protect the public interest as a whole.

City Administrator Swenson updated the Council regarding the cartway petition that was submitted by Fraser Enterprises. Mr. Swenson noted he received a call from the DNR and was informed that there are a lot of restrictions on that property with the

conservation easement that was approved by the Council in August 2010. Mr. Swenson reviewed the easement noting no new roads can be added and vegetation is not allowed to be removed. According to a conversation the DNR had with Gerry Brine, the legal counsel for Fraser Enterprises, an easement was signed when the property was sold but it was never recorded by the closing company. Mr. Swenson noted the Fraser's will probably have to work with the DNR and the State of Minnesota on this issue and more than likely the City will have no further involvement. At this time the site meeting and public hearing are still scheduled for June 13th but the Council will be informed if that changes.

Mr. Anderson continued the discussion by reviewing various outstanding tasks and issues, including: Septic system database, right-of-way ordinance, state building code, optional shoreland rules, residential zoned properties used for rental purposes, landfills, home occupations and sign ordinance.

Septic System Database – Mr. Anderson noted there are approximately 2,400 properties with septic systems in Crosslake and the County has authorized use of their software program to input data. This effort was part of the Pilot Project that was authorized by the City Council several years ago. Councilmember Swanson was appointed by the Council to serve on the advisory board as a voting municipal member. The County Board has now essentially assumed all of these duties and powers. The data input will average about fifteen minutes per real estate file depending upon the quality of the data in each file. This equates to approximately 80 days of full-time staff work. Councilmember Swanson noted the software is a good program and is operating at the County level. Septic information was entered by the County for all properties within the Pilot Project Area except Crosslake and it is important for Crosslake's properties to be included in this database.

Mayor Schneider requested Mr. Anderson review each issue briefly so the Council could see the whole scope of issues before them, and then would open up discussion on issues that the Council feels are important to deal with first.

Right-of-Way Ordinance – The City periodically encounters public safety problems with improvements installed within the public right-of-ways of the City. Examples of some improvements include signs, fences, retaining walls, boulders, re-bar, gardens, extravagant mail boxes, stone piers at driveway entrances, no driveway setbacks established from intersections, excessive driveway maximum widths, etc. Some of these improvements create hazards for snow plowing, driver sight lines, and storm water storage and drainage. The Public Works Department has requested assistance from the Planning and Zoning Department to complete drafting an ordinance for possible adoption. The City Council should determine if it is desirable to establish a local ordinance and, if so, would they be willing to enforce the ordinance standards and support restrictions on installing these types of improvements.

State Building Code – The City Council should determine if they wish to adopt the State Building Code. If not, then they must determine how to revise the current system of issuing permits to distinguish between zoning permits and building permits that are mandated by state law for handicapped accessibility improvements. With the issuance of the required building permits, the City is mandated to reimburse the State of Minnesota a surcharge fee for the issuance of building permits which the City is currently not doing.

Optional Shoreland Rules – The DNR has developed new shoreland rules to update the rules last adopted in 1989 as required by the Minnesota Legislature. Governor Pawlenty did not sign the rules as he did not want to require a “one size fits all” rule state-wide, but emphasized that local governments could adopt the rules if they chose to do so. It has been reported that the rules are being reviewed by Governor Dayton. The DNR has indicated that the new rules may be adopted and would meet state requirements. Crow Wing County’s new land use ordinance incorporates many of the rules and language from the optional shoreland rule document. For example, the 1989 rules regulate guest cottages (or “guest quarters” as listed in the City’s ordinance). The new state rules do not regulate guest cottages. This has been an area creating some land use, enforcement, and general compliance problems for the City in the past.

Residential Zoned Properties Used for Rental Purposes – Staff periodically receives complaints from property owners about adjacent residential properties, typically on a lake, being rented out on a regular basis. The ordinance limits rentals to no more than four per year. Furthermore, all rentals must reimburse the Whitefish Area Lodging Association (WALA) a 1% tax that is used for marketing and promotion efforts. Most of these residential properties do not comply with this requirement and are not properly licensed through the Minnesota Department of Health (MDH). There is some interest in having the City of Crosslake work cooperatively with WALA to inform the public of the necessary rental requirements. Enforcement has been done on a complaint basis and is difficult as it requires cooperation of the Police Department and affected neighbors to assemble sufficient evidence to proceed with enforcement, if necessary.

Landfills – There are multiple sites where land filling of brush and demolition debris including furniture, tires, concrete, bituminous, building materials, etc. are being or have been deposited on lots in the City. The ordinance prohibits new landfills. The City Council needs to determine if staff should proceed with corrective actions to insure no further land filling occurs on sites not properly permitted to do so. Currently, the Crosslake Demolition Debris Facility is the only state licensed facility authorized to take demolition debris within the City of Crosslake and is currently under review by the MPCA to be re-permitted.

Home Occupations - There are several properties where businesses are being operated out of residentially zoned structures. Home occupations require a conditional use permit and have certain standards that must be met. Is the City Council open to staff insuring that home occupations are only authorized to

operate with the proper conditional use permit or should staff investigate home businesses only after receiving a complaint?

Sign Ordinance - The sign ordinance specifies that off-premise Residential Directory Signs shall not be allowed and existing signs shall be removed not later than December 1, 2010. The ordinance was adopted in May of 2008. The ordinance specifies that all existing, upward lit, freestanding signs shall be converted to a conforming light standard (shielded and directed downward only) by December 1, 2010. The City Council needs to determine who on the City Council shall sign the letters that need to be sent to the property owners/sign owners that do not comply with the above standards. Staff can then prepare the letters for signature and mail them to the appropriate persons.

Mr. Anderson also noted he provided a memo from Attorney Couri dated November 19, 2010 which provides an update on the status of various enforcement actions. Attorney Couri briefly reviewed each of the eleven items on the memo with the Council.

Mr. Anderson next discussed more specific outstanding violations with the Council. Mr. Anderson noted that a complaint was received regarding a property owner's flood lights extending out onto the lake around the Daggett Channel. The complainant could not identify the specific property and Mr. Anderson noted he went out to that area a few times at night to try to identify where the problem was coming from. Councilmember Swanson stated a complaint should have sufficient information to identify the property owner to allow staff to deal with the problem efficiently. Councilmember Moengen agreed stating he is looking for consistency in enforcement and staff shouldn't spend time chasing complaints without being provided with the necessary information. City Administrator Swenson noted that it's important to allow staff the flexibility to determine how much information is needed when a complaint is made. MOTION 03S1-02-11 WAS MADE BY JOHN MOENGEN AND SECONDED BY DEAN SWANSON TO REMOVE VIOLATION #2 FROM THE OUTSTANDING VIOLATIONS LIST. MOTION CARRIED WITH ALL AYES.

The next item that was discussed was the American Legion overflow parking lot. Mr. Anderson stated that in mid 2008 he met with the Legion Board after the American Legion purchased the property next to their building to be used as an overflow parking lot. The City's ordinance requires a property owner to hard surface all parking lots greater than six spaces, and therefore a condition was placed on the over-the-counter zoning permit giving them one year to pave the lot. Councilmember Roe said that a lot with various uses should not be required to be hard surfaced. Mayor Schneider commented there may also be impervious coverage issues if they were to pave the lot and that should be reviewed prior to enforcing this requirement. Attorney Couri commented that in his experience, he has seen other cities create a committee to review these types of issues and make recommendations to the Council based on the information gathered. Councilmember Moengen noted he would like to be a member of the committee. Mayor Schneider stated he would also like to volunteer for the committee as he wants to know more about the issues that the

Planning and Zoning Commission deals with and wants to be able to understand their recommendations.

Planning and Zoning Chairperson Mike Winkels stated many of the City's ordinances have been developed through various committees of not only City personnel but also members of the public. Mr. Winkels commented that he has yet to see the Council fully enforce the current ordinances in place and that the Commission looks at all facets of an issue that is brought before them. The Commission is cautious about changing an ordinance just because it may not work in the favor of one person.

Councilmember Moengen commented that he wants to see the City move forward with many of these open issues as every issue carries a potential financial burden to the city. Mr. Winkels asked Attorney Couri if the City has the authority to correct problems that pose a health risk or hazard for neighbors and Attorney Couri noted that the City doesn't have the authority to make improvements on a property without a court order. By using the court system a resident who does not do what has been ordered by a judge would be held in contempt of court which holds more weight than anything the City could do.

Dean Eggena of 14995 Daggett Pine Road was present and said that state statute says the remedy for a violation is a misdemeanor which results in a fine to the offender. He has dealt with many different cities and with all of his violations he has always had to pay a fine and has never been to civil court. Attorney Couri noted that civil court is more effective than criminal court because in criminal court the judge usually only orders a small fine for the offender to pay for the violation. With civil court, the judge orders the offender to remedy the problem which is more effective.

Councilmember Swanson requested Mr. Anderson to review the outstanding list of ordinance amendments as provided to the Council. Mr. Anderson briefly reviewed each ordinance amendment.

Accessory Structures – There was discussion by a previous Council on changing the limits on the size of accessory structures allowed in the R-1 and R-3 zoning districts. A previous Councilmember felt that there could be a better way to determine what criteria would be looked at when considering how large an accessory structure could be such as looking at impervious coverage rather than square footage of a structure.

Pre-existing Lots – A previous Council had made some determinations on lots created after 1972 in which they were considered to be created in good faith and therefore did not have to meet current DNR standards. The DNR informed the City that they objected to this approach because it does not comply with the DNR rules. Staff was awaiting direction from the previous Mayor which was never received.

Subdivision – Currently the Subdivision Advisory Committee is looking at chapter three of the City Code and is close to completing their recommendations.

Bluff/Steep Slope – The Commission has been waiting to see what information comes from the DNR regarding the definition of a bluff and has tabled the issue until further guidance is established.

Outdoor Wood Burners – This issue is on the agenda for the March 25th Commission meeting for the Commission to review recommendations made by the City Council regarding concerns that the amendment did not seem to address initially.

Lot Line – The Council has tabled this amendment until the May Council meeting as it relates to the definition of lot line regarding a metes and bounds subdivision.

Interim Uses – The Commission is in the process of looking at incorporating interim uses into the Code to permit a use for a specified time period or until a specified event occurs.

The Council re-addressed the memo prepared by Attorney Couri and concluded for item #4 relating to the King patio, considering there was no concrete evidence to confirm how much the patio increased in size, that this item should be taken off the list of enforcement action items. MOTION 03S1-03-11 WAS MADE BY STEVE ROE AND SECONDED BY DARRELL SCHNEIDER TO REMOVE ITEM #4 FROM THE OUTSTANDING ENFORCEMENT ACTION LIST. MOTION CARRIED WITH ALL AYES.

MOTION 03S1-04-11 WAS MADE BY DARRELL SCHNEIDER AND SECONDED BY STEVE ROE TO CREATE A ZONING ISSUES AD-HOC COMMITTEE CONSISTING OF FIVE MEMBERS INCLUDING MAYOR SCHNEIDER, COUNCILMEMBER MOENGEN, COMMUNITY DEVELOPMENT DIRECTOR KEN ANDERSON AND TWO PLANNING AND ZONING COMMISSION MEMBERS TO BE DETERMINED. The focus of the Committee will be to review outstanding Planning and Zoning issues and violations and present recommendations to the City Council. MOTION CARRIED WITH ALL AYES.

There being no further business, MOTION 03S1-05-11 WAS MADE BY RUSTY TAUBERT AND SECONDED BY STEVE ROE TO ADJOURN THIS SPECIAL CITY COUNCIL MEETING AT 12:41 P.M. MOTION CARRIED WITH ALL AYES.

Respectfully submitted by,



Jennifer Max
Clerk/Treasurer

BILLS FOR APPROVAL
March 23, 2011

VENDORS	DEPT		AMOUNT
AW Research, manganese test	Sewer		43.20
AW Research, water test	Sewer		113.40
AW Research, water test	Sewer		113.40
Chemsearch, cleaner	PW		439.26
Houston Ford, oil change	Police		31.08
Houston Ford, install block heater, oil change	Police		210.00
Jenny Max, reimburse travel expenses	Admin		25.67
Keepers, uniform	Police		68.93
Ken Anderson, reimburse travel expenses	P&Z		93.92
Marco, copier lease	ALL		416.89
Mastercard, Amazon.com, books	Library		129.68
Mastercard, AVG Technologies, anti virus	Library		68.83
Mastercard, Best Western, lodging	Admin		286.56
Mastercard, Best Western, lodging	Admin		143.28
Mastercard, Best Western, lodging	P&Z		112.48
Mastercard, Footsmart, uniform	Police		9.99
Mastercard, Green Mill, travel expense	Admin		15.00
Mastercard, LaQuinta, lodging	P&Z		78.41
Mastercard, Valvoline, oil change	P&Z		39.50
Mastercard, Wall Street Journal, subscription	Library		100.00
Mastercard, Whitefish Auto, replace rack and pinion	P&Z		411.62
Mastercard, travel expenses	P&Z		19.40
Menards, cords, outlets, plugs	PW		206.17
MN Police Officers Assn, rights of officers training	Police	pd 3-21	125.00
Northland Press, meeting notice of 3/25	P&Z		60.00
Northwood Turf and Power, blades	PW		330.33
Northwood Turf and Power, belts, I-hammers, bolts	PW		658.08
Pequot Lakes Grad Blast, donation	Gov't		100.00
RF Backflow, plumbing repair	Gov't		62.40
RF Backflow, test, rebuild and clean RPZ	ALL		1,658.86
The Office Shop, ink cartridge	P&Z		35.26
Thelen Heating, furnace repair	PW		2,475.00
TOTAL			8,681.60