

**CITY OF CROSSLAKE
CITY COUNCIL
SPECIAL MEETING
9:00 A.M., FRIDAY, JULY 21, 2006
CITY COUNCIL CHAMBERS, CITY HALL
MINUTES**

MEMBERS PRESENT: Mayor Jay Andolshek, Dick Phillips, Dean Swanson, Terry Curtis and Dean Eggena

OTHERS PRESENT: Planning and Zoning Commissioners Mike Winkels, Dale Melberg, Nancy Addington and Roger Lynn; Kenneth Anderson, Community Development Director; Bryan Hargrave, Planner - Zoning Coordinator; and the Council Chambers was occupied near capacity by other members of the public.

SPECIAL MEETING/CALL TO ORDER: Mayor Jay Andolshek called the meeting to order at 9:01 A.M.

1. Bills for approval

MOTION 07S1-01-06 WAS MADE BY DEAN SWANSON, SECOND BY DEAN EGGENA TO APPROVE BILLS AS SUBMITTED IN THE AMOUNT OF \$26,656.84. MOTION CARRIED WITH ALL "AYES."

2. Provide Direction to the Planning and Zoning Commission and Staff Pertaining to Boat and Dock Rules

Councilman Dean Eggena stated in opening that he accessed the MPCA web site and downloaded secchi disk data for most of the lakes in the City. He said that the data indicated that most of the lakes are clearer now than ten years ago. He said that the Planning and Zoning Commission and the statements they have made is the problem, not water quality. He further stated that our lakes are clearer than some lakes in the BWCA. His view was that there is no problem with boat traffic and too many docks. He took issue with the Planning and Zoning Commission – water quality is ok, but aesthetics is another issue. Councilman Dick Phillips stated that he disagreed with Mr. Eggena. In looking at the data, he said that the water clarity in Big Trout and Whitefish Lakes has declined. Councilman Eggena said that most of those lakes are not in the City of Crosslake. General discussion followed. Ken Anderson put the data on the overhead so everyone could view it. Mr. Eggena talked about the data for Daggett and Little Pine Lakes. They are two of the shallowest lakes on the Chain. The water clarity is better now than ten years ago. He went over a number of other lakes. He took strong exception to the Planning and Zoning Commission stating there is a problem when the data indicates otherwise. Councilman Terry Curtis stated that the Planning and Zoning Commission is made up of a group of citizens. They are entitled to their opinions. Councilman Eggena disagreed. He stated that he contacted the DNR and they had no issues with water quality in the City. Councilman Swanson agreed with Councilman's Curtis' comments. He stated that the Planning and Zoning Staff and Commission have the right to express their opinion. The information that Councilman Eggena brought forward is good

information, but in his view, the real issue is more of an aesthetics issue. He felt that this meeting was premature – the Council has not had enough time to look at the issue. Councilman Phillips said that the information that Councilman Eggena provided was good. He further stated that the problem is with aesthetics. The County has their own rules. The City can make an Ordinance that is as restrictive or more restrictive than the County. The water quality issue is put to rest in his mind. The City needs to address the aesthetic issue.

Ken Anderson went over what exists in the City Ordinance. There is a Water District in the Zoning Ordinance. Mr. Anderson went over the language of the Water District, which includes limit of a maximum of three motorized watercraft per property. The City Council amended this section of the ordinance later in 2000 stating that only electric motors could be used on parts of Little Pine Lake to the west and south of Dream Island. However, in the opinion of Mr. Anderson and the City Attorney, the City has not officially adopted the Water District because it is not listed in Chapter 8, Sec. 8.11.D of the City Ordinance. It also is not shown on the Zoning Map; therefore, it is not enforceable at this time in his opinion. Councilman Dean Swanson stated that he was on the Council when the Water District was formed. It was an oversight by the City Attorney that it was not included correctly in the Ordinance. He stated that the DNR and the County were involved in the creation of the Water District. Mr. Anderson said that the City has not enforced the Water District zoning regulations. The County and the Police Department are supposed to enforce it. People should have reasonable use of the water. The community has taken more of a land use approach. He showed some photos taken by Bryan Hargrave of a situation where an individual was using one dock as a patio over the water and then had another dock for his boats. He also showed some aerial photos of commercial properties in the City where the number of docks and their placement interferes with navigable waters. Councilman Curtis stated that he has no personal preference or passion. He said more input from the public is needed. Councilman Swanson stated that the Council should look at the entire City. One rule may not fit all situations.

Mayor Jay Andolshek requested public input from the people at the meeting. Roger Lynn, 13402 Hidden Valley Road, came forward to make some comments. He said that he was the person from the Planning and Zoning Commission that made the comments on water quality that Councilman Eggena disputed. Councilman Eggena asked whom he was representing. Mr. Lynn stated that he was representing himself and the Rush Lake Association. Mr. Lynn presented data from WAPOA (Whitefish Area Property Owners Association) that indicated that water clarity in the Whitefish Chain of Lakes is declining. He said that the water quality is declining and the boat traffic is increasing. He didn't know if there is a cause and effect. Roger Roy, 36477 County Road 66, stated that global warming is causing the increase in the decline of water quality in the Whitefish Chain. Dan Miller, 37839 County Road 66, said that there should be a debate about what should be allowed on the lakes. People with lake homes should have more input. He has heard no complaints about docks. He doesn't feel that we need to legislate any more rules on docks and really sees no reason to change anything. There was no other public input.

Councilman Eggena stated that there is not a problem with water quality. He doesn't feel that we need to regulate docks or boats – there isn't a problem with those issues. He hasn't heard any complaints from anyone and said that we shouldn't be legislating things that are not

problems. He said that the City should not create rules for aesthetics. Councilman Phillips said that he still feels there is a problem. The Council should either approve the Water District or take it out of the Ordinance. Councilman Eggena said that there is no Water District in the City Ordinance. The only way the City could enforce rules on the water is if the Water District was officially included in the list of established zoning districts. Therefore, the City has no jurisdiction over the lakes. The County and State have rules that they enforce. Councilman Swanson stated that there is a water surface ordinance in Crow Wing County. Those should be followed. They are enforced by the Crow Wing County Sheriff's Office. Councilman Curtis said the only other question he has is how would the City handle the situation in the bay that Ken Anderson had brought up earlier where there were a lot of docks in a small area and one person's dock blocked another person's dock. Ken Anderson answered that the County would enforce the navigable water ordinance where one person's dock cannot block another person's access to their dock or the lake. Councilman Eggena stated that one person couldn't block navigable water and the County or State would enforce that. Councilman Swanson stated that the City doesn't need to get involved because the County and/or State cover it.

MOTION 07S1-02-06 WAS MADE BY DEAN EGGENA, SECOND BY JAY ANDOLSHEK TO INSTRUCT THE CITY OF CROSSLAKE PLANNING AND ZONING COMMISSION AND STAFF TO DROP THE ISSUE OF BOAT AND DOCK ISSUES AT THIS TIME BECAUSE IT IS COVERED BY THE COUNTY.

Councilman Curtis stated that the Planning and Zoning Commission and Staff were asked to review the issue. They did that and they came out with their opinion. The review was a positive thing.

AN AMENDMENT TO THE MOTION WAS MADE BY DEAN EGGENA THAT PLANNING AND ZONING DROP ANYTHING ON THE BOOKS THAT IS UNENFORCEABLE.

Further discussion followed. Councilman Swanson said that he didn't feel that the Water District should just be dropped. He said that too much work went into formulating it. Councilman Eggena stated that there should not be any rules in the Ordinance that are non-enforceable. Ken Anderson said he was asking direction from the Council on the Water District portion of the Ordinance. He questioned if it should stay in the Ordinance and be recognized as a zoning district or be deleted in its entirety or amended in some fashion. Councilman Swanson stated that he didn't feel that it should be taken out of the Ordinance.

THE MOTION WAS DROPPED BY DEAN EGGENA FOR LACK OF A SECOND.

Councilman Phillips still felt that the City should have a Water District. He stated that there are rules for everything else and the City should not abandon the water. Councilman Eggena said that the City should not carry a rule that says people are limited to three motorized watercraft per lot. Councilman Curtis said that the Council could deal with the Water District at a later date.

The Mayor called the question: MOTION 07S1-02-06 WAS MADE BY DEAN EGGENA, SECOND BY JAY ANDOLSHEK TO INSTRUCT THE CITY OF CROSSLAKE PLANNING AND ZONING COMMISSION AND STAFF TO DROP THE ISSUE OF BOAT AND DOCK ISSUES AT THIS TIME BECAUSE IT IS COVERED BY THE COUNTY. MOTION CARRIED WITH ALL "AYES."

The Mayor called for a five-minute break at 10:14 A.M.

The Mayor reconvened the meeting at 10:20 A.M.

3. Review City Ordinance As It Pertains to Petition's for Road Vacation

Ken Anderson showed a map of the portion of Shadywood Street that the City has been asked to vacate. The question was if the petition to vacate the street was valid. Mayor Jay Andolshek asked if the purpose of the agenda item was to look at the road vacation process in general or just to deal with the vacation of Shadywood Street. Ken Anderson answered that Councilman Eggena and Councilman Phillips asked that this be put on the agenda for Council discussion. Councilman Eggena went over the issue regarding the specific road vacation request for Shadywood Street. He referred to Section 6.31.c of City Ordinance. He stated that he went through another road vacation request about three years ago in the Manhattan Beach area where the City Attorney stated that the public areas of the plat were left for the use of the people in the plat and not to the public in general. So, that in combination with Section 6.31.c of the City Ordinance led him to believe that the City Council should not even accept the road vacation request of Dick Dietz for a portion of Shadywood Street. Councilman Dean Swanson asked if the City Council authorized the procedure to proceed. Councilman Eggena stated that no motion was made. Councilman Curtis stated that his understanding was that there was some confusion as to why it was brought before the City Council before it went through the Planning and Zoning Commission. After discussion, there were some requirements that Mr. Dietz needed to fulfill before the Council would look at the application, but that his impression was that the Council would accept the application. Councilman Eggena said that it should have been brought before the City Council for a decision whether the City Council would accept the application, but the Council didn't vote yeah or nay.

MOTION 07S1-03-06 WAS MADE BY DEAN EGGENA TO DENY ANY APPLICATION FOR VACATION OF PROPERTY IN THE MANHATTAN BEACH PLAT BASED ON THE FOLLOWING REASONS: THIS PARTICULAR PLAT IS VERY UNIQUE; THIS ISSUE HAS BEEN TALKED ABOUT MANY TIMES BEFORE; VACATIONS HAVE ALL BEEN DENIED; THE LAST MOTION BY A COUNCIL THREE YEARS AGO WAS TO NOT ACCEPT APPLICATIONS FOR VACATION OF PROPERTY IN MANHATTAN BEACH; THE CITY ATTORNEY'S OPINION AT THAT TIME WAS THAT THE CITY PROBABLY DIDN'T HAVE THE RIGHT TO VACATE PROPERTY IN THAT PLAT DUE TO THE PLAT LANGUAGE. SECOND BY TERRY CURTIS

Councilman Curtis said that the right procedure would be to petition to the owners of the plat rather than to the City Council. Councilman Eggena answered that his recollection was that the City would have to condemn all of the roads and accesses in the Manhattan Beach plat to

get control and then the City could proceed with the vacation of parts of it legally. He gave an example of Brita Lane – same type of situation. Further discussion followed. Ken Anderson put minutes from the December of 2004 City Council Meeting in which it was stated that the City would not vacate any property abutting the water anywhere in the City. However, it did specifically say that other public property not abutting water could be considered for vacation. This does not deal with the specific issue that Councilman Eggena brought up. Councilman Swanson stated that the City has vacated property on Manhattan Point fairly recently and there was no legal problems associated with the process. Councilman Eggena stated that the applicant has the right to petition District Court to abandon the road. Councilman Swanson was not in favor of saying never. Ken Anderson stated that he pulled the plat of Manhattan Beach (replat of Twin Beach) and it stated “they hereby donate and dedicate to the public for public use forever the boulevards, streets, avenues and roads as shown on the annexed plat ...”. Councilman Curtis said that the language of the plat indicates that the property is public property and the petition is valid. Councilman Eggena stated that then there is the question of whether a piece of property that leads to water should be vacated. Discussion followed about this issue. Ken Anderson stated that the Planning and Zoning Commission and the Parks Commission are required to make a recommendation to the City Council about this petition. The Planning and Zoning Commission has not taken up the petition yet, but the Parks Commission has recommended that the City Council not approve the petition.

MOTION 07S1-03-06 FAILED ON A 1-4 VOTE WITH DEAN EGGENA VOTING “AYE” AND JAY ANDOLSHEK, DEAN SWANSON, DICK PHILLIPS AND TERRY CURTIS VOTING “NAY”.

MOTION 07S1-04-06 WAS MADE BY DEAN EGGENA, SECOND BY DICK PHILLIPS TO DENY THE APPLICATION FOR VACATION OF PROPERTY IN THE MANHATTAN BEACH PLAT BASED ON SECTION 6.31.C OF THE CITY ORDINANCE: “WITH RESPECT TO STREET OR ALLEYS CONNECTING SEPARATE LOTS OR LINE BETWEEN BLOCKS OR LOTS OR PROVIDING ACCESS FOR THE PUBLIC TO ANY PUBLIC WATER, THE COUNCIL SHALL NOT VACATE ANY SUCH STREET OR ALLEYWAY...”

Councilman Curtis stated that he did not feel comfortable in cutting off the application. Councilman Swanson agreed. Councilman Eggena said there are lots of other people involved. Manhattan Beach owners have complained about how much property has been given away. The applicant can go to District Court to have the street vacated. Councilman Swanson said the Plat was laid out 80 years ago. He wanted to let the process go through.

MOTION 07S1-04-06 FAILED ON A 2-3 VOTE WITH DEAN EGGENA AND DICK PHILLIPS VOTING “AYE” AND JAY ANDOLSHEK, DEAN SWANSON AND TERRY CURTIS VOTING “NAY”.

The Mayor called a five-minute recess at 11:14 A.M.

The Mayor reconvened the meeting at 11:28 A.M.

4. Review Certificate of Survey Requirements

Community Development Director Ken Anderson opened discussion stating the City Council asked the Planning and Zoning Commission to review whether a Certificate of Survey should be required if an old Certificate of Survey could be updated easily. The Planning and Zoning Commission passed a motion (motion by Roger Lynn, second by David Andersen) that all required procedures that require a Certificate of Survey (Variance, Conditional Use Permit, Plat, Metes and Bounds subdivision and non-conforming structures) now should still require a Certificate of Survey.

MOTION 07S1-05-06 WAS MADE BY DEAN SWANSON, SECOND BY JAY ANDOLSHEK TO CONTINUE TO REQUIRE A CERTIFICATE OF SURVEY FOR ALL VARIANCE, CONDITIONAL USE PERMIT, AND SUBDIVISION APPLICATIONS ALONG WITH APPLICATIONS FOR IMPROVEMENTS TO NONCONFORMING STRUCTURES AS CURRENTLY REQUIRED.

Councilman Phillips asked what the difference is between a Certificate of Survey and a regular survey. Ken Anderson answered that a Certificate of Survey is a document prepared by a Registered Land Surveyor that on the day of the survey, the information on the survey is certified correct. The other option is to accept a site plan in lieu of a Certificate of Survey. Mr. Anderson gave an example of this. A professional engineer prepared a site plan for a cost of about \$800. Landecker and Associates had a quote of \$900 to \$1,200 for updating a survey of the same property. He said the cost difference was actually must closer than the site plan cost being only 10% of the cost of a survey as reported by a Councilmember at the previous meeting. Councilman Phillips asked how many survey companies are there in the area? Mr. Anderson mentioned that there are four or five companies. Councilman Phillips asked how much a typical Certificate of Survey costs? Mr. Anderson stated that a typical survey costs between \$1,600 and \$2,000. Further discussion followed. Bryan Hargrave stated that he had a person come into the office and told him that his neighbor had a Certificate of Survey completed for his property. The person marked the pins on his side of the lot, but the neighbor's son moved the pin over ten feet onto his lot. He stated that he has not heard about this happening often, but it does happen. Councilman Eggena stated that it is a felony, not a misdemeanor, but a felony for someone to move survey pins. He further stated that he has no argument with the information required by the Planning and Zoning Department. His problem is that he feels that site plans work for many of the processes where we require Certificates of Survey. Steve Roe, a citizen of Crosslake living on Manhattan Point, gave public comment on the need for a survey. His neighbor would have built her house ten feet onto his property if he had not been around when she was starting to build. The problem was that the rear pins to his lot were missing. Councilman Eggena stated that Planning and Zoning Staff should have checked on the location of the house and if they could not validate where the location of the property lines were, then they could have required a Certificate of Survey. He felt that a Certificate of Survey would not have prevented the error by his neighbor. Councilman Curtis asked Councilman Eggena where a Certificate of Survey should be required in his estimation. Councilman Eggena answered that if Planning and Zoning Staff or the Planning and Zoning Commission felt that a Certificate of Survey was needed, then it should be required. Plats, by definition, require a Certificate of Survey. Councilman Curtis stated that surveyors make

mistakes and are not perfect. Councilman Eggena stated that the City could do a better job of catching mistakes. Councilman Curtis said that accurate information should be the responsibility of the landowner. Councilman Eggena stated that Planning and Zoning should have a list of information that they need -- how the landowner gets the information is up to them. Staff can then check it out and if the information is not adequate, then they can require a Certificate of Survey. Councilman Swanson said that it is putting too much pressure on Staff. Staff doesn't have enforcement rights of the Ordinance. Councilman Eggena stated that Staff should go out and check each application. He is in favor of giving extra funding so Staff can check things out for each application. Councilman Curtis said that the Council would have to allow Staff to require a Certificate of Survey when needed.

The Mayor called the question: MOTION 07S1-05-06 WAS MADE BY DEAN SWANSON, SECOND BY JAY ANDOLSHEK TO CONTINUE TO REQUIRE A CERTIFICATE OF SURVEY FOR ALL VARIANCE, CONDITIONAL USE PERMIT, AND SUBDIVISION APPLICATIONS ALONG WITH APPLICATIONS FOR IMPROVEMENTS TO NONCONFORMING STRUCTURES AS CURRENTLY REQUIRED. MOTION FAILED ON A 2 TO 3 VOTE WITH DEAN SWANSON AND JAY ANDOLSHEK VOTING "AYE" AND TERRY CURTIS, DICK PHILLIPS AND DEAN EGGENA VOTING "NAY".

Councilman Curtis stated that this does not change the Ordinance. The Council needs to look at a modification of City Ordinance.

MOTION 07S1-06-06 WAS MADE BY DEAN EGGENA, SECOND BY JAY ANDOLSHEK TO DIRECT THE PLANNING AND ZONING COMMISSION AND STAFF TO COME UP WITH A LIST OF REQUIREMENTS THAT SHOULD BE ON A SITE PLAN FOR ALL VARIANCES, CONDITIONAL USE PERMITS, AND METES AND BOUNDS SUBDIVISION APPLICATIONS. MOTION PASSED ON A 4 TO 1 VOTE WITH JAY ANDOLSHEK, TERRY CURTIS, DICK PHILLIPS AND DEAN EGGENA VOTING "AYE" AND DEAN SWANSON VOTING "NAY".

ADJOURN:

MOTION 07S1-07-06 WAS MADE BY DEAN SWANSON, SECOND BY DICK PHILLIPS TO ADJOURN THE MEETING AT 12:27 P.M. MOTION CARRIED WITH ALL "AYES."

Minutes Respectfully Prepared by Bryan Hargrave



BILLS FOR APPROVAL
21-Jul-06

VENDOR	DEPT	AMOUNT
Abra True Value, grinder, wheel	PW	6.86
Ace Hardware, drill bits	PW	30.99
Ace Hardware, mailbox, screws	PW	16.58
Ace Hardware, wasp spray	PW	17.37
Ace Hardware, trowel, cement, concrete	PW	50.66
Ace Hardware, blade, lock	PW	19.98
Alamo Sales Corp, main frame	PW	672.07
Ancom, 8 pagers (donated money)	Fire	7,587.16
Ancom, battery	Fire	46.86
AW Research, water test	Sewer	81.00
AW Research, water test	Sewer	118.80
AW Research, water test	Sewer	118.80
B&B Products, install antennas in squad cars	Police	120.00
Blue Lakes Disposal, trash removal	ALL	264.13
Bond Trust Services, agent service fees	Gov't	450.00
Cascade Computers, computer	Police	1,204.75
Chris Leonard, reimburse for wrench, light	Fire	45.00
Crow Wing County Treasurer, e911 addresses	Gov't	175.00
Crow Wing Power, electric services	ALL	4,105.85
Dacotah Paper, can liners, toilet tissue, paper towels	P&R	483.74
Dacotah Paper, paper cups	Gov't	28.87
Dave Rozinka, ump fees	P&R	50.00
Ehlers & Associates, tif reports	Gov't	43.75
Hawkins Water Treatment, ferric chloride, aqua hawk	Sewer	616.80
Hawkins Water Treatment, aqua hawk	Sewer	122.56
Heartland Animal Rescue Team, pickup stray dog	Gov't	331.25
Johnson, Killen & Seiler, afscme negotiations	Gov't	2,676.35
Lakes Printing, newsletters	Gov't	284.30
Lambert Water Wells, new well	Gov't	3,482.35
Mastercard, Anthony Mulinaro, thermostat guard	P&R	105.33
Mastercard, Fleet Farm, uniform	PW	106.96
Mastercard, Oriental Trading, halloween party supplies	P&R	483.53
Mastercard, York Barbell Company, weights	P&R	20.00
MCS Cleaning, july cleaning	Gov't	772.13
Northwood Turf and Power, mower blade, torq gard	P&R	84.67
Pat Tweed, reimburse for supplies	Library	19.68
Pepsi, pop	PW	111.03
Postmaster, postage	P&Z/Admin	1,000.00
Quality Body & Collision, repair air conditioner	PW	146.68
Quill, envelopes, post it notes	P&Z/Admin	33.41
Quill, printer toner	Police/Admin	198.39
Quill, photo paper, ink cartridges	P&Z	209.83
Unicel, cell phone charges	PW	106.29
UPS, postage	Police	7.08
TOTAL		26,656.84