

**MINUTES**  
**Regular Meeting of Lake Shore City Council**  
**Monday, July 25, 2011**  
**7:00 PM Lake Shore City Hall**

Mayor John Terwilliger called the July 25, 2011 Regular City Council meeting to order at 7:00 p.m. The pledge of allegiance was recited.

**Roll Call:** Mayor John Terwilliger. Council Members present: John Bukovich, Susan Amacher and Lyle Kline; City Attorney Steve Qualley; City Engineer Dave Reese; Police Chief Steve Sundstrom; City Administrator/Planning and Zoning Administrator Teri Hastings; Public Works Jim Thomes and City Clerk Patti McDonald. Doug Miller was absent. There were 10 people in the audience.

**APPROVAL OF MINUTES**

MOTION BY JOHN BUKOVICH TO APPROVE THE JUNE 27, 2011 REGULAR CITY COUNCIL MINUTES AS PRESENTED. SUSAN AMACHER SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**REPORTS**

**Police/Fire Report** – Chief Steve Sundstrom

Incident Report - From June 27, 2011 to July 24, 2011 there were 242 incidents in the City. There were 137 traffic-related incidents and 105 were miscellaneous department activity.

Donation – National Child Safety Council – The Cass County Sheriff’s Office is in the process of organizing their child safety and drug education program for children and their parents. This is the 12<sup>th</sup> year for this very worthwhile program. They are asking for a donation to help provide safety materials and services for the program.

MOTION BY LYLE KLINE TO DONATE \$115.00 TO HELP OFFSET THE COST OF THE NATIONAL CHILD SAFETY PROGRAM SPONSORED BY CASS COUNTY SHERIFF’S DEPARTMENT. JOHN BUKOVICH SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**Mayor’s Report**– John Terwilliger

**Clerk/Treasurer’s Report** – Patti McDonald

MOTION BY SUSAN AMACHER TO APPROVE THE FINANCIALS AS SUBMITTED. JOHN BUKOVICH SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Purchase Computer for Council Chamber –There are two quotes for a new computer for the City Council Chamber. The existing computer was the old one from the clerk’s office; it had a new hard drive installed, but it was too old and didn’t last a month. The quotes received are from Cascade computers, the company the city has been using for repairs and general computer assistance for \$449.00 and one from Amazon.com for \$469.99.

MOTION BY JOHN BUKOVICH TO AUTHORIZE THE PURCHASE OF A COMPUTER FOR THE COUNCIL CHAMBER FROM CASCADE COMPUTERS. SUSAN AMACHER SECONDED THE MOTION. MOTION PASSED.

**City Administrator/Planning & Zoning Administrator** – Teri Hastings

P&Z Meeting Time Change – The Planning Commission agreed to change their meeting time to earlier in the day; they will now meet at 9:30 a.m. There is no business for the month of August; however,

Susan and Teri talked about meeting even though there is no business to teach committee members how to make motions, etc. John Terwilliger suggested that they include all city committee members.

July EDA Activity Report – The July EDA activity report was included for review.

April Minutes and June Permit Summary – Teri included the April minutes and the June permit summary for review.

**Wastewater/Road Committee** – John Bukovich referred to Jim Thomes.

Bishops Landing – Drainage Issue – Teri Hastings received letter from Jim and Vicky Lundeen dated July 19, 2011. The south side of their property borders Bishops Landing Road. After the resurfacing of the road at Bishop's Landing the gutter overflows when it rains and there is frequently standing water in the low areas of their lot and surrounding their septic system. The issue was brought to the Wastewater/Road committee. Jim Thomes received a quote from Anderson Brothers to patch/repair the boat landing for \$3,040.09.

Susan Amacher said that the pictures that were included in the council packet were disturbing. Dave Reese said that the road contractor completed the project to how it was designed. Dave said that the new curbing could affect the parking on that side of the street and asked if the no parking signs could be moved to the repaired side of the road. Jim didn't think there would be any issues with that.

MOTION BY SUSAN AMACHER TO APPROVE THE QUOTE FROM ANDERSON BROTHERS FOR \$3,040.09 TO REPAIR THE ASPHALT AT BISHOPS LANDING. JOHN BUKOVICH SECONDED THE MOTION. MOTION PASSED.

Kubitschek Driveway – Ridge Road – The city received a complaint from Dan and April Kubitschek of 8024 Ridge Road regarding the condition of their driveway approach after the resurfacing of Ridge Road. The approach is extremely steep coming off Ridge Road and the angle of the approach has been significantly changed due to the resurfacing and matching into their existing driveway. Jim met with the Kubitschek's and feels the best solution would be to add an additional 35 feet of bituminous to make it a more gradual slope. They felt this was an acceptable solution. Jim received a quote from Anderson Brothers for \$1,233.75.

MOTION BY JOHN BUKOVICH TO APPROVE THE QUOTE FROM ANDERSON BROTHERS FOR \$1,233.75 TO REPAIR THE APPROACH TO KUBITSCHEK'S DRIVEWAY. SUSAN AMACHER SECONDED THE MOTION. MOTION PASSED.

Nottingham Road Vacation – Jim Thomes' staff report indicated that at the regular Wastewater/Road committee meeting held on Tuesday, July 19, 2011 the committee voted unanimously to recommend to the Lake Shore City Council that they are not in favor of vacating the north end of Nottingham Road (as applied for by Kevin L. Hayford and Steven E. Sullivan). The committee also request that the City of Lake Shore have a representative of the City be present at the hearing regarding this matter on August 10, 2011 at 10:30 a.m. at the Cass County Courthouse, Walker, Minnesota.

The Mayor said the city received 3 letters of opposition and one is in favor of the road vacation. He said the applicants have revised the road vacation. Mr. Kevin Hayford came before the City Council to explain the revised road vacation request. He said the primary reasons for the vacate of Nottingham Road are: the right of way doesn't not provide any public value or purpose; the right of way is not the sole means of vehicular access to existing properties; the right of way is not part of any long range transportation or utility plan; and the integrity of the hill adjacent to the vacted area is unknown and that for practical reasons, it is best to minimize vehicular traffic on this section of the road directly adjacent

to the property of Sullivan/Hayford. They intend to pay for the vacation of the road from the vacate to Little John Road. They have identified an adequate turnaround at the vacate site.

Tim Ramerth, Engineer from Westwood Professional Services representing Steve Sullivan and Kevin Hayford said the applicants own Lots 2 thru 7, Block 10; Tingdale Brothers Sherwood Forest on Gull Lake; and the request is to vacate from Lot 7 and follow to Robinhood Way. In his opinion based on review of the application Tim agrees with the vacation of Nottingham Road. In his letter he states that they (Westwood) agree with the benefits for the road vacation. In addition, we would add that the road as it exists today in the area that the vacation request has been made is substandard to the city requirements. The road has been identified in the 5 year road plan to receive improvements in the year 2011. In order to accomplish this, a substantial investment will be required for a minimal benefit. The costs for improvements would negatively affect the neighboring property owners in the form of an assessed value being applied to each parcel to offset the cost of construction.

Tim said other city roads are built to a higher standard to allow more traffic. The applicants would provide a drainage and utility easement over the road right of way that will be vacated. Utilities will be afforded the opportunity to provide services to the area in question, via the drainage and utility easement and any existing utilities will be protected by the easement. Tim asked how much maintenance takes place on Robinhood Way.

John Vallen, Attorney for the applicants made reference that the city and the state have overlapping ordinances. He also stated that the safety issue would prove to be a benefit in public interest for the road vacation.

Tim Ramerth said for safety purposes there is plenty of room to make a turnaround to comply with city ordinance for emergency vehicles. It would be at the end of Nottingham Road near Lot 7; it would be a branch type turnaround.

Earl North asked if it would take more than 50 cubic yards to complete the turnaround. If it does it would require a CUP from the Planning and Zoning.

Kurt Nelson (8389 Nottingham Road) said that they don't use the road proposed to be vacated (as revised) all that often; they use it for trailering boats and a turnaround wouldn't be beneficial. He said that the road is a benefit to the public, he has lived on the road 14 years and the school bus picks his kids up there and utilizes the entire road for access. He said if they want to improve the road that would be great; he asked why vacate it. Kevin said that with the tree removal in Robinhood Bowl they are concerned that the road may collapse into the bowl. He said a lot of people walk down the road and they will not stop anyone from walking. They want to return the property to its natural state and want to mitigate the erosion into the bowl. Tim Ramerth said that the way the grading is done the water is directed onto the road surface and the high point is on Robinhood Way. The Mayor said there are a lot of roads that are not up to city standard. Teri said that in 1996 when Nottingham was improved the city provided several options and the residents chose a middle of the road option for financial reasons as it was an assessed project. Dave Reese said the berm option was chosen to reduce the erosion on Robinhood Way. Kevin said there is standing water on the road every time it rains and the drain is clogged with dirt. Kurt Nelson said that it is nice to have two ways to get to his property especially when there are trees down on one of them because of storms.

Kurt Nelson stated that he spoke to his neighbor Mark Badenhoff who is not in favor of the road vacation. His concern is the impact on his property with people turning around in his driveway since it would be a dead end road.

Earl North asked how there would be improvement to the slope if they are not improving the road. Tim Ramerth said that the class V would be removed; leave the berm and vegetation would be added. They

would also add vegetation to the bowl. Earl asked in the vacation process does half of the right of way go to each of the land owners on each side. The city will own half to include the bowl. Kevin said if the vacate goes through they said they would maintain the bowl. Earl said the right of way and the road don't center on each other. He said that they plan to put walking paths and vegetation in the bowl and the city would have to maintain city property. Tim said the city is already responsible to maintain the property. Tim said the road is substandard and the 2007 5 year road plan indicates that it is the city's intent to bring city roads closer to city standards.

Anne Robertson said her main concern is if the turnaround is found not to be sufficient, they may be encroached upon. They are not willing to come up with a plan for a turnaround on their property. Wes Robertson stated if he needed to divide off a lot it would make it less inviting to do so if the road is vacated.

Kurt Nelson asked if there have been any road vacations to roads that are currently used to show benefit to the public. Teri said that there was one in the last ten years where the road was the driveway.

Susan Amacher said that what the applicant is offering to do to the road is a benefit to the city. She said she knows that it's been this way for over 60 years; although she feels that it is well worth approving the application that they are putting forward with the improvements being made.

John Bukovich said that the fire department is his main concern. He said if they put a dump tank and need another truck there is not enough room. The turnaround would be in the right of way.

Steve Sundstrom asked if there is a guarantee that the improvements will be made if vacated and the maintenance that is offered will always be maintained by them or the landowner.

John Terwilliger said that as he sees it, it would be a benefit to the city in terms of improvement. He said that the adjoining landowners may not see it the same way though. He will base his opinion on how they feel. Kurt Nelson said that before he came to the meeting he made a list of pros and cons and the pro was that there would be less traffic; then realized there really isn't a lot of traffic anyway. He said that he hadn't heard from the applicant.

John Valen stated Sullivan/Hayford followed the city ordinance for vacation and notified all 160 residents in the plat. He said that it doesn't say that they had to personally have to contact the residents.

Steve Qualley said there are three options for the city. 1) Ignore and do nothing. 2) Tell the district court they are in favor. 3) Tell the district court they oppose. If the city files a response in opposition it will be a contested matter. If an agreement cannot be made on the vacation the matter will proceed with a hearing. If nobody objects to the matter the court will go ahead and approve the vacation. The Cass County filing fee to appear in court to provide an opinion is \$300.00.

**MOTION BY SUSAN AMACHER TO APPROVE THE APPLICATION FOR ROAD VACATION OF NOTTINGHAM ROAD. Motion failed for a second.**

**MOTION BY JOHN TERWILLIGER TO OPPOSE THE APPLICATION FOR ROAD VACATION OF NOTTINGHAM ROAD. JOHN BUKOVICH SECONDED THE MOTION. BUKOVICH, TERWILLIGER AND KLINE VOTE YES, AMACHER VOTES NO. MOTION PASSED.**

June Minutes – The June minutes were included for review.

John Terwilliger asked if there has been a quote received for the Pohl Road improvement. Jim Thomes said that Rardin has been contacted, but they haven't responded so far.

**Park and Recreation Committee** – Lyle Kline said that at the meeting the discussion was about the outhouse condition and the new trash cans that Jim put in the park. The committee also approved to move forward with the Initiative Foundation Grant Inquiry for trail planning.

Initiative Foundation Grant Inquiry – Trail Planning – Teri said that if the grant inquiry meets the qualifications of the grant they will be asked to move forward with the full grant application.

MOTION BY JOHN TERWILLIGER TO APPROVE MOVING FORWARD WITH THE INITIATIVE FOUNDATIONS GRANT INQUIRY FOR TRAIL PLANNING. LYLE KLINE SECONDED THE MOTION. MOTION PASSED.

June Minutes – The June minutes were included for review

**Environmental Committee** – Doug Miller – Teri Hastings said that on July 11<sup>th</sup> the Land and Water Tour took place with approximately 57 people participating. The surveys have come back with very favorable comments. She said the weather was beautiful. The lunch was at Bar Harbor and all locally grown food/meat was used.

May Minutes – The May minutes were included for review.

**Personnel** – John Terwilliger/Susan Amacher

Annual Review for Mike Heldt – Chief Steve Sundstrom, Mayor John Terwilliger, Council Member Susan Amacher and City Administrator Teri Hastings met to perform an annual review of Officer Mike Heldt. Susan said that Mike’s review was favorable and recommends a step increase. Both Susan and Lyle said that they hear positive comments regarding the Lake Shore Police Department.

MOTION BY SUSAN AMACHER TO APPROVE A STEP INCREASE FOR OFFICER MIKE HELDT FROM STEP SIX TO STEP SEVEN AS HE MET HIS EVALUATION REQUIREMENTS. LYLE KLINE SECONDED THE MOTION. MOTION PASSED.

**City Attorney** – Gammello, Qualley & Pearson – Steve Qualley said that the council isn’t required to attend the hearing for the road vacation. He said the response will be filed with the court.

John Terwilliger asked about the Kirklin litigation. The League is still representing the city and the issue has been stalled as there hasn’t been any significant discussion. Cass County will now have to schedule a date for a hearing. Steve said that the cartway appeal is proceeding.

**City Engineer** – Widseth Smith Nolting – Dave Reese said as far a road projects they are in the punch list phase. The Dettbarn Road Public Hearing will be at 6:30 on the regular August Council meeting.

**OLD BUSINESS** – John Bukovich said that on Fernmont Road it was difficult to see around the first corner. Jim brushed it out last week. Jim also brushed the corner at Ridge Road and County 78 and said when it freezes he will clear out more.

The Mayor asked where the city was with the quotes for the roof repair. Jim caulked the roof and it seemed to have stopped the leaking. Jim will purchase more of the same stuff he used and will put it along the south edge of the building.

## **NEW BUSINESS**

Request from Nisswa/Lake Shore First Responders – Teri Hastings received a letter from the Nisswa/Lake Shore First Responders asking for financial assistance. They are requesting \$1,500.00 from the City.

Steve Sundstrom introduced Bruce Edberg from the First Responders and thanked him for his service.

MOTION BY JOHN BUKOVICH TO DONATE \$1,500.00 TO THE NISSWA/LAKE SHORE FIRST RESPONDERS. LYLE KLINE SECONDED THE MOTION. MOTION PASSED.

Authorize Purchase of Fence Material to Create Storage Yard at City Hall – Chief Steve Sundstrom requested to purchase an enclosed 20X40X6’ chain link fence with gates installed on the west side of City Hall for storing vehicles that are being held for forfeiture. Currently the City has two vehicles that are being held for forfeiture. It can take up to six months before a vehicle is awarded to the Police Department. Turner Towing charges \$12.00 per day for storage and has been working with the PD for storing vehicles; however, if the PD is not awarded the vehicle only the initial impound with no storage can be charged to the owner. The cost for installing the fence is approximately \$854.58 from Menards and Jim Thomes and Steve would install the fencing.

MOTION BY JOHN BUKOVICH TO APPROVE THE PURCHASE OF A 20X40X6’ CHAIN LINK FENCE WITH GATES NOT TO EXCEED \$1,500.00. SUSAN AMACHER SECONDED THE MOTION. MOTION PASSED.

John Terwilliger said received a request from the Gull Chain of Lakes Association for donation to put sprayers to wash the zebra mussels off boats entering/exiting the boat access. This would be manned by a trained person. John Bukovich said that the problem is already there. The council didn’t act on the request as there isn’t any money allocated in the budget for 2011.

**ANNOUNCEMENTS/PUBLIC FORUM** – Chuck Bergquist said that the council approved up to \$39,000.00 to improve Pohl Road and there is a possibility it may not cost that much for the improvement. He asked if any remaining funds could it be used for other gravel roads that need improvements. The road committee could make a recommendation if there is money that is left over.

Earl North said that he has lived at the end of a gravel road for some time now. He said that when you live on a gravel road you have some expectations of it being bumpy once in a while. He said that he in all the years only had to make a complaint once regarding the condition of his road.

Earl also commented that he believes that the city didn’t direct Crow Wing Power to go take down trees in the right of way in Robinhood Bowl. Teri said she didn’t direct them. The power company has the authority to maintain the right of way of tree removal for their lines. He pointed out that if there is an erosion problem Crow Wing Power should be approached to apply additional vegetation. John Bukovich said that the road isn’t as unsafe as the council was led to believe.

MOTION BY LYLE KLINE TO PAY THE BILLS AS SUBMITTED (CLAIM NUMBERS 29766 THROUGH 29835 - TOTAL \$196,427.32). JOHN TERWILLIGER SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

MOTION BY JOHN TERWILLIGER TO ADJOURN THE REGULAR CITY COUNCIL MEETING OF JULY 25, 2011 AT 8:45 PM. SUSAN AMACHER SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald  
Lake Shore City Clerk