

**REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKE ST CROIX BEACH
16455 20th STREET SOUTH
WASHINGTON COUNTY, MINNESOTA**

October 17, 2016

AGENDA

7:00 P.M.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **APPROVE AGENDA**

4. **CONSENT AGENDA** Roll Call Vote. *(Consent Agenda items, listed on the following page, are defined as routine business, not requiring discussion and approved by a roll call vote. Councilmembers may elect to pull a Consent Agenda item(s) for discussion and/or separate action)*

5. **OPEN COMMENTS FROM THE PUBLIC**

Visitors may share their comments or concerns on **any issue** that is a responsibility or function of the City Council of Lake St. Croix Beach, not an issue as listed on this agenda. Persons who wish to address the City Council must fill out a comment card before the meeting begins and give it to the City Clerk or City staff. The mayor will ask you to come to the podium, state your name and address, and present your comments. Your presentation will be limited to no more than 3 minutes. The mayor reserves the right to limit an individual's presentation if it becomes redundant, repetitive, overly argumentative, or if it is not relevant to an issue that is part of the City Council's responsibilities. The mayor may also limit the number of individual presentations.

PUBLIC COMMENTS (Agenda Items)

Visitors may share their comments or concerns on any **agenda item listed** that is a responsibility or function of the City Council of Lake St. Croix Beach. Persons who wish to address the City Council must fill out a comment card before the meeting begins and give it to the City Clerk or City staff. The mayor will ask you to come to the podium, state your name and address, and present your comments. Your presentation will be limited to no more than 3 minutes. The mayor reserves the right to limit an individual's presentation if it becomes redundant, repetitive, overly argumentative, or if it is not relevant to an issue that is part of the City Council's responsibilities. The mayor may also limit the number of individual presentations.

6. **PUBLIC SAFETY REPORTS**

- A. Law Enforcement
- B. Emergency Response and Fire
- C. Animal Control

7. **CITY STAFF REPORTS**

- A. City Engineer Parotti

- B. City Attorney Sandstrom
 - 1. Shoreland Park Legal Determination

- C. City Clerk-Administrator Schuler

- 1. Candidate Forum
- 2. Update from Building Official, Peter Kulczyk
- 3. Washington County Septic Ordinance
- 4. Fund Accounting Software
- 5. Codification update
- 6. CRS Update
- 7. Bluff Restoration update
- 8. Web site update
- 9. Parks workshop/administrative process
- 10. Minutes (council)
- 11. Budget workshop

- **October Claims: \$47,413.02**, Check Numbers 17338 thru 17368

- D. Deputy Clerk Andrew Brunick

8. **NEW BUSINESS**

- A. Mike Bubany, Financial Advisor, David Drown and Associates, Inc.
(Street bonding information)

9. **UNFINISHED BUSINESS**

- A. Minutes from July
- B. Clerk-Administrator Performance Review

10. **OTHER BUSINESS**

11. **COUNCIL/STAFF REPORTS**

- A. Councilmember Brown
 - Cable Commission
- B. Councilmember Kline
- C. Councilmember Reiter
 - Environmental Advisory Board
- D. Councilmember Unker
 - Afton Wastewater Treatment System
- D. Mayor McCarthy
 - Parks Report and Liaison
 - Veterans memorial
 - Sentence -To- Serve (STS)
 - Planning Commission
 - Middle St Croix Water Management Organization
 - Lower St Croix Valley Partnership Team

12. **ADJOURNMENT**

4. **CONSENT AGENDA ITEMS**

No items.

Public Safety Reports

Washington County Sheriff's Office
 CONTRACT ICR's
 Contract Report for LAKE ST CROIX BEACH
 For the Period 9/01/16 To 9/30/16

Date	Time	ICR #	ID#	Street Name	Complaint
9/01/16	15:53:19	116032754	0095	20TH ST	BURN COMPLAINT
9/01/16	16:57:52	116032768	0095	20TH ST	FOUND WALLET
9/02/16	6:19:39	116032808	0089	QUINLAN AV	JUVENILE COMPLAINT
9/02/16	23:01:27	116032972	1280	QUELLO AV	NOISE COMPLAINT
9/02/16	23:42:44	116032975	1280	QUINLAN AV CIR	MEDICAL LEVEL 1
9/04/16	9:10:29	116033106	0130	20TH ST	MEDICAL **LEVEL 1**
9/04/16	14:27:48	116033145	0176	QUINLAN AV	INTOXICATED MALE *RESTACK AMB
9/05/16	15:38:34	116033249	0076	SAINT CROIX TR	DAMAGE TO PROPERTY
9/07/16	10:37:19	116033457	0096	QUENTIN AV	TRESSPASSING-RESTACK
9/07/16	13:54:22	116033479	0160	QUARRY AV	MISSING PERSON
9/07/16	20:46:38	116033517	0176	RAMADA AV	SUSPICIOUS ACTIVITY
9/09/16	8:50:30	116033647	0130	18TH ST	FRAUD REPORT
9/09/16	16:23:00	116033709	0084	QUENTIN AV	THEFT REPORT
9/09/16	16:41:48	116033712	0084	RIVIERA AV	THEFT REPORT **COMP CB'D /
9/09/16	21:31:50	116033737	0134	QUENTIN AV	DISTURBANCE/GM INTERFERE W/911
9/10/16	19:14:43	116033817	0091	19TH ST	BARKING DOG **COMP ANON**
9/11/16	10:11:56	116033873	0160	QUARTZ AV	FOUND FERRET
9/12/16	8:53:50	116033955	0160	RACINE AV	ABANDONED VEHICLE
9/12/16	16:55:56	116034040	0091	RACINE AV	PUBLIC ASSIST
9/15/16	12:57:15	116034381	0151	QUENTIN AV	VICTIM NOTIFICATION
9/15/16	17:35:28	116034436	0176	UPPER 22ND ST	SOLICITOR COMPLAINT
9/16/16	17:46:34	116034585	0091	SAINT CROIX TR	SUSPICIOUS ACTIVITY
9/17/16	11:43:20	116034643	0075	19TH ST	CIVIL ASSIST
9/17/16	12:17:07	116034647	0130	RACINE AV	HARASSMENT
9/17/16	13:27:02	116034653	0075	SAINT CROIX TR	DRIVING COMPLAINT
9/17/16	16:08:27	116621736		SAINT CROIX TR	STANDBY
9/19/16	18:20:11	116034940	0095	QUEENS AV	PANIC ALARM
9/19/16	22:29:33	116034959	0176	20TH ST	SCB COUNCIL MEETING
9/20/16	16:33:13	116035086	0172	SAINT CROIX TR	TOBACCO COMPLIANCE FAILURE
9/22/16	19:48:24	116035435	0176	SAINT CROIX TR	CAR DEER ACCIDENT
9/23/16	10:23:58	116035494	0081	QUINLAN AV	911 ABAN
9/24/16	0:24:39	116035625	0100	QUEENS AV	INTRUDER *RSTK/CALL*
9/24/16	0:24:39	116622345	0100	QUEENS AV	AOA/INTRUDER
9/25/16	15:34:14	116035762	0074	17TH ST	DOMESTIC
9/27/16	10:21:41	116035964	0160	QUEENS AV	FOUND PROPERTY
9/28/16	17:51:21	116036152	0090	QUARTZ AV	911 OPEN LINE
9/28/16	22:05:44	116036169	0092	QUINLAN AV CT	ASSIST
9/29/16	3:50:51	116036181	0072	21ST ST	SUSPICIOUS ACTIVITY
9/30/16	10:02:20	116036369	0100	19TH ST	OFFICER INFO

CJBWPR\$

Total ICRs Processed: 39

** END OF REPORT **

AGN	Date	Citation Number	Badge	Officer Name	Citation Type	Warning	Street Name	City	Literal Desc
WCSO	2016-09-24	820029626801	1280	T. VanSomeren	Citation	N	QUEENS AVE S	Lake St. Croix Beach	CRIM-DISORD OFFENSIVE/AI
WCSO	2016-09-11	820032625501	160	K. Manis	Citation	N	QUENTIN AVE S	Lake St. Croix Beach	CRIM-TRESPAS PROPERTY TO HARASS/ABUS

ANIMAL CONTROL REPORT
 Humane Animal Control Service
 Kathi Pelnar CVT, ACC
 Wildlife - Domestic - Exotics

Month/Year: September 2016
 City: Lake St. Croix Beach

Date	Time	Caller	Location	Description of Animal	Collar / Tag	Dry Run	Overnight	Fee	Milage	Total
9/1/16		No Calls Out This Month								-
		No Warning Letters Sent								-
		one report of a sighting of a stray cat on bluffs								-
		Lost Reports 1Dog/1Cat	Found Reports 1Cat							-
8/1/16		Past Due 6 Month Service Retainer						300		300.00
Total										300.00

Date	Time	Caller	Location	Description of Animal	Collar / Tag	Dry Run	Overnight	Fee	Milage	Total
										-
										-
										-
										-
										-

**ECKBERG LAMMERS
MEMO**

To: LSCB City Council
From: Kevin Sandstrom, City Attorney
Date: October 10, 2016
Re: LSCB Shoreland Park Usage (01701-00589)

RESEARCH MEMO

Issue:

The city attorney's office was asked to research the issue of the regulation and use of the Shoreland Park, specifically the undeveloped portions of the parkland outside of the public swimming beach. Some persons in the City believe that the Shoreland Park can, should, or historically may have been limited to use only by residents of LSCB. The City Attorney was asked to ascertain whether this is in fact the case.

The Facts:

As many know, LSCB started out as a private recreational association, complete with clubhouse. Historical property deeds indicate that in or about 1925, Warren and Madeline Smadbeck deeded and conveyed various lands marked as "Parks," including parks, recreational fields, beach, clubhouse, streets, boulevards, and buildings, to the private "Lake Saint Croix Beach Property Owners Association, Inc." with the caveat that such lands were not to be transferred, mortgaged, encumbered, or disposed of, and that the Association would keep and maintain such parks, beach, and recreational fields "**open and accessible to the use of the owners of land in Lake Saint Croix Beach**" and with the further caveat that if the association were to ever become a municipal corporation, then the Association was then obligated to deed such properties "by appropriate deed of conveyance" to the municipality, free of charge.

Based upon the foregoing, there seems to be some evidence that the park lands in the city (along with recreational fields, streets, old clubhouse, and other joint amenities) were intended solely for the use of property owners within the original Lake St. Croix Beach Association. The question is, however, whether or not such restriction on the use of the parks continued in existence once the City of Lake St. Croix Beach was incorporated and became the owner of those properties. Notably, although Smadbeck's deed to the Association placed that caveat regarding reservation of use only by "owners of land" within the Association, such a restriction makes perfect sense within a private property association. It is not clear from Smadbeck's deed that such restrictions would continue in place if and when a public municipality was formed.

As set forth in the City's 2008 Comp Plan, the City of Lake St. Croix Beach was incorporated in 1951 "because residents wanted the advantages of local government. These included local control of road maintenance, and building code requirements for new and remodeled homes."

(Comp. Plan at p.6) Historical records indicate that not long thereafter, on or about March 29, 1952, the Lake St. Croix Beach Property Owners Association, Inc. conveyed and deeded its various streets, boulevards, parks and recreational land to the newly formed “Village of Lake St. Croix Beach, a municipal corporation.” **Importantly, there does not appear to be any restrictions placed upon the Village of Lake St. Croix Beach in receiving this conveyance of property from the Association, including streets and parks.**

Of interest to note is the fact that neither Smadbeck’s deed to the Association, nor the Association’s deed to the Village of LSCB makes any distinction between the Shoreland Park and any other areas that were originally donated. They are all lumped together and transferred in the same manner and on the same terms. In other words, under both the 1925 deed and the 1952 deed, the Shoreland Park was treated in the same manner as the swimming beach, recreational fields, streets, and other “public” lands. Thus there does not appear to be any appreciable distinction today as to why the Shoreland/Bluffland Park would be treated any differently than the swimming beach or the public streets in terms of availability to the general public.

Conversely, the 1998 Comp Plan and 2008 Comp Plan, under the heading of “Parks, Open Space and Trails,” both discuss the public park land in the City and state as follows:

“The City currently has two developed public parks, Pettitt Park and Riverfront Park, the undeveloped Shoreland/Bluffland Park, and the bike/walk trail. ... The parks in Lake St. Croix Beach are intended for the use of local residents, therefore parking may be limited at these facilities. Citizens responding to the survey indicated the bike/walk trail and the Shoreland Park are the most used park facilities.”

(1998 Comp Plan at p.17, 2008 Comp Plan at p. 22)

It is unclear on what basis the Comp Plan asserts that all parks in LSCB “are intended for the use of local residents” or whether that is intended to constitute a restriction excluding non-citizens from the parks. Conversely to the foregoing statements suggesting restricted use, the 2008 Comp Plan also acknowledges public use of the park facilities, noting that:

“Riverfront Park has a swimming beach, picnic facilities and playground equipment. The beach has been identified as one of the top beaches in the Twin Cities Magazine and has become a popular destination for visitors from across the metro area.”

(2008 Comp Plan at p.22)

The Comp Plans have conflicting information as to whether the parks in the City are restricted to use by citizens as opposed to use by the general public. In one provision, the comp plan suggests that all parks are intended for use by local residents, but in another, the comp plan acknowledges that the swimming beach is used by people from all across the Metro. The historical recorded land records are likewise unclear on this point.

The Law:

Regarding acquisition of municipal property, Minnesota Statutes broadly provide:

“Every city shall be a municipal corporation having the powers and rights and being subject to the duties of municipal corporations at common law. Each ... may acquire, either within or without its corporate limits, such real and personal property as the purposes of the city may require, by purchase, gift, devise, condemnation, lease or otherwise, and may hold, manage, control, sell, convey, lease, or otherwise dispose of such property as its interests require.”

Minn. Stat. § 412.211.

Minn. Stat. § 412.221, Subd. 6, also provides:

“Public ways and grounds. The council shall have power to lay out, open, change, widen or extend streets, alleys, parks, squares, and other public ways and grounds and to grade, pave, repair, control, and maintain the same; to establish and maintain drains, canals, and sewers; to alter, widen or straighten watercourses; to lay, repair, or otherwise improve or discontinue sidewalks, paths, and crosswalks. It shall have power by ordinance to regulate the use of streets and other public grounds, to prevent encumbrances or obstructions,”

Getting more specific, Minn. Stat. § 462.358, subd. 1a, regarding municipal subdivisions and public dedications, states:

“To protect and promote the public health, safety, and general welfare, to provide for the orderly, economic, and safe development of land, to preserve agricultural lands, to promote the availability of housing affordable to persons and families of all income levels, and to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds, and other public services and facilities, a municipality may by ordinance adopt subdivision regulations establishing standards, requirements, and procedures for the review and approval or disapproval of subdivisions. The regulations may contain varied provisions respecting, and be made applicable only to, certain classes or kinds of subdivisions. The regulations shall be uniform for each class or kind of subdivision.”

Minn. Stat. § 462.358, subd. 2b states:

Dedication. (a) The regulations may require that a reasonable portion of the buildable land, as defined by municipal ordinance, of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements, parks, recreational facilities as defined in

section 471.191, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance or under the procedures established in section 462.353, subdivision 4a.

In other words, cities are authorized to acquire property and create parks and other public grounds, and it is ultimately a city's subdivision ordinance that regulates public dedication of park lands.

The City of LSCB has adopted the County's Model Subdivision Code at Chapter 400 of the City Code. It does not appear that LSCB made any appreciable changes to that model code when it was adopted. Section 101(4) of the subdivision code states that the purpose of the ordinance includes "Securing the rights of the public with respect to public lands and waters." Section 902 of the subdivision code discusses "public sites and open spaces" but those sections do not provide any useful guidance to the situation before us.

Outside of the City's subdivision ordinances, the City Code does discuss its public parks in Chapter 1500 regarding Nuisances. Code Section 1501.010 states:

"All public parks and picnic areas (not owned in the name of the State of Minnesota) and all public beaches within the limits of the City of Lake St. Croix Beach shall be open for use of the general public between the hours of 5:00 o'clock in the a.m. and 10:00 o'clock in the p.m."

The foregoing may be definitive of the issue, stating that all parks in the city are open for use by the general public. Given the lack of specifics on the issue of dedication of public parks in either state statute or the city's code and/or comp plan, it appears we should look to "common law," in other words case law from the Minnesota Courts, on these issues.

A "common-law dedication" of public land is a public dedication accomplished by any means other than by a duly executed and recorded plat. *Keiter v. Berge*, 219 Minn. 374, 378, 18 N.W.2d 35, 37 (1945). It is clear under Minnesota law that there are two requirements for common-law dedication: (1) The intent of the landowner to have his property appropriated for and devoted to some public use, and (2) an acceptance of that use by the public. *Bartlett v. Stalker Lake Sportsmen's Club*, 168 N.W.2d 356, 357 (Minn. 1969). The courts generally look closely at any restrictions or qualifiers placed upon a deed that creates a public dedication.

Acceptance of an offer to dedicate may be shown either by acts of public officers or by user by the public. *Bartlett v. Stalker Lake Sportsmen's Club*, 168 N.W.2d 356, 357 (Minn. 1969). As said in more detail by the Minnesota Supreme court in 1955 in discussing the public dedication of a roadway:

The essentials of a common-law dedication of a roadway are (1) the landowner's intent—express or implied—to have his land appropriated and devoted to a public use, and (2) an acceptance of that use by the public. Dedication rests upon intent and not upon prescription.¹ Although there can be no dedication without the landowner's intent, such requisite intent need not be express, and in fact need not

actually exist in the owner's mind, but may be implied from acts and conduct of the owner which are unequivocally and convincingly indicative of a dedication and upon which the public has a right to and does rely. Acts and visible conduct on the part of the owner which unequivocally and convincingly carry with them a plain intent to dedicate a road to public use prevail over the owner's subsequent denial of such intent. The familiar maxim that a man is presumed to intend the usual and natural consequences of his acts is applicable to dedications. It is unnecessary to elaborate upon the intent element since that has been done elsewhere.

Daugherty v. Sowers, 243, Minn. 572, 575, 68 N.W.2d 866 (Minn. 1955). Notably, the *Daugherty* case dealt with an argument that a roadway was not really a dedicated “public road” because the road only led to one house and was largely used by only the owners of that home and their invitees for many years, although the town had done some maintenance on it over the years. The property owner argued it was essentially a private driveway that they were entitled to block the general public from using. The court disagreed, finding that despite the fact that the use of the “road” was limited, the manner in which it was dedicated evidenced a public dedication as a road, and therefore everyone was entitled to use it and the property owner to whose home the road led was not entitled to block or obstruct it in any way. *See id.*

In this case, the deed conveying property from the Association to the newly formed Village of LSCB in 1952 seems to evidence a clear intent to dedicate that property to the public use. It also appears clear that the city and the general public have accepted this public dedication by their use of the streets, swimming beach, shoreland park and other land dedicated by the Association in 1952. Because there are no particular rules, regulations, restrictions or qualifications placed in the deed to the Village of LSCB, it would seem that public dedication inures to the benefit of the general public. There are no restrictions contained in the dedicating deed that indicate the use of the Shoreland Park is limited or restricted to residents. Rather, it appears that all of the property was subject to a broad and overarching dedication to the general public.

LAKE ST CROIX BEACH

Claims List for Approval

10/14/2016

Date range: 09/19/2016 to 10/14/2016

Date	Vendor	Description	Claim #	Total	Account #	Detail
09/20/2016	SHORT ELLIOTT HENDRICKSON	Engineering Services INV. 321443	10195	\$2,113.23	100-43122-300	\$364.23
					100-43122-300	\$159.00
					100-43122-300	\$159.00
					100-43122-300	\$39.75
					100-43122-300	\$755.25
					100-43122-300	\$357.75
					100-43122-300	\$278.25
09/20/2016	Susan Schuler	Reimbursements - Mileage	10196	\$404.78	100-41590-331	\$404.78
09/20/2016	T2 Systems Canada Inc.	Digital Irs/EMS Services	10197	\$60.40	100-45201-400	\$55.00
					100-45201-400	\$5.40
09/20/2016	U.S. Bank Equipment Finance	Copier Lease - October	10198	\$216.00	100-41575-390	\$216.00
09/22/2016	J. N. Johnson, a division of LVC	Fire Extinguisher Service & Repair	10185	\$100.90	100-41940-220	\$100.90
09/23/2016	Chris Andahl Locksmith, Inc	Open door and install key box	10178	\$141.00	100-41940-310	\$141.00
09/23/2016	HIGHLAND SANITATION	City Garage Trash	10184	\$462.76	100-41940-310	\$135.19
					100-41940-310	\$22.98
					100-41940-310	\$47.32
					100-41940-310	\$257.27
09/23/2016	J.R.'s Advanced Recyclers	Recycling appliances inv 90464	10186	\$230.00	100-43245-310	\$230.00
09/24/2016	COMCAST	Phone Lines	10180	\$171.54	100-41575-380	\$171.54
09/26/2016	CENTERPOINT	Monthly Service - Acct 7711653-1&7711657-2 & 7711658-0	10177	\$52.94	100-41940-380	\$16.98
					100-41940-380	\$17.98
					100-41940-380	\$17.98
09/26/2016	Visu-Sewer, INC	Storm Sewer TV	10200	\$1,550.00	400-45205-210	\$1,550.00
09/27/2016	City of Maplewood	Street blades and brackets <i>- signs</i>	10190	\$4,959.35	100-43126-810	\$4,959.35
09/29/2016	Clifton Larson Allen	Weekly processing, Budgeting, Property Taxes inv 1355291	10179	\$3,634.00	100-41510-300	\$3,634.00
09/30/2016	ECKBERG LAMMERS BRIGGS	City Attorney Fees Inv 3205 & 2671	10181	\$3,283.56	100-41600-300	\$2,131.16
					100-41600-300	\$1,152.40
09/30/2016	DON FIXMER	Video Taping Services	10182	\$112.50	100-41575-300	\$112.50
09/30/2016	LAKELAND WATER UTILITY	Water Bill	10187	\$58.75	100-41940-380	\$58.75

LAKE ST CROIX BEACH

Claims List for Approval

10/14/2016

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Detail</u>
09/30/2016	MENARDS	Summary	10191	\$374.85		
09/30/2016	Metro Sales	Copier Contract and Usage	10192	\$191.94	100-41570-210	\$80.39
09/30/2016	QUILL OFFICE SUPPLIES	Office Supplies inv 9541775	10193	\$298.25	100-41570-210	\$21.96
09/30/2016	River Valley Printing	Newsletter- September & October	10194	\$501.00	100-41570-210	\$14.34
09/30/2016	Nancy Truax	Mileage reimbursement	10203	\$144.72	100-41590-331	\$144.72
09/30/2016	City Of Bayport	Building Permit Fees	10205	\$1,374.25	100-46101-520	\$1,374.25
09/30/2016	LEONA RAVEN	Cleaning - September	10206	\$100.00	100-41940-310	\$100.00
10/01/2016	LAWN BARBERS LAWN CARE	Lawn Care - inv 8508	10188	\$3,454.25	100-45206-310	\$3,454.25
10/02/2016	LOWER ST CROIX VALLEY FIRE DISTRICT	Fire Protection Services - 2016 4th Quarter	10189	\$13,768.75	100-42200-310	\$13,768.75
10/03/2016	U.S. Bank	Transactions on Charge Card	10199	\$249.43	100-41600-430	\$39.95
10/03/2016	WASTE MANAGEMENT OF MINNESOTA	Monthly Recycling Bill & Cleanup bill	10201	\$4,040.93	100-41960-610	\$48.67
10/03/2016	XCEL ENERGY	Electricity for accounts 51-0011291859-6 & 51-5580426-7	10202	\$747.18	100-41110-308	\$27.24
10/06/2016	Freedom Valu Centers	Gasoline Acct 261327 <i>parks Gate</i>	10183	\$7.28	100-41570-200	\$1.57
10/10/2016	Andrew Brunick	Mileage reimbursement	10176	\$65.98	100-41580-322	\$6.00
10/12/2016	Green Code Knowledge, LLC	Building Inspector <i>contracted</i>	10204	\$4,542.50	100-45201-210	\$126.00
Total For Selected Claims				\$47,413.02		\$47,413.02