



City Administrator's Weekly Update

WEEK ENDING MARCH 17, 2017

Upcoming Events:

March 21, 5:30 pm
Council Work Session
City Hall

March 21, 7:00 pm
City Council Meeting
City Hall

March 28, 4:15 pm
Library Board
Library

March 28, 7:00 pm
Planning Commission
City Hall

April 3, 4:30 pm
Parks Commission

April 4, 5:30 pm
Council Work Session
City Hall

April 4, 7:00 pm
City Council Meeting
City Hall

April 5, 8:00 am
EDA
City Hall

Dave Hallback, Mayor

City Council Members:

Jeff Rock, Ward 1
David Bjerkness, Ward 2
Roger Maki, Ward 3
Kerry Kolodge, Ward 4
Steve Langley, Ward 5
Adam Bailey, At Large

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ADMINISTRATION

Well, this is my last Weekly Update....

I have had a chance to say good bye and thank you to many of you over the past few weeks. But there are probably just as many that I have not had that chance. To those, I apologize for not finding the time to do so.

The past few weeks have flown by and have been a whirlwind of activity. It was frequently overwhelming and often very humbling to find myself in this place. Any success that folks have been talking about I can only attribute to those staff that value the integrity of service to the public and have given themselves to meeting that objective. With that in mind, I give each and every one of you a heartfelt thank you for your hard work, your dedication and efforts to make Cloquet a better place for our residents and businesses.

Change is a difficult part of life. With this change I know that both this organization and I will need to adapt and change. I encourage each of you to look to the future, to look at how you can help make your department better and the City a place that our residents are proud to live. Go that extra mile and do take that path that is more difficult. You will be better for it and your community will be a better place for it. Act with integrity in everything you do or at a minimum, at least think of what your mother would expect you to do and then do the right thing.

Thank you all again, and best of luck with your futures!

Brian



Other Items Attached:

* March 13, 2017 Shamrock CUP Letter



City of Cloquet
1307 Cloquet Avenue • Cloquet MN 55720
COMMUNITY DEVELOPMENT DEPARTMENT
Holly Butcher, Director
Phone: 218.879.2507 * Fax: 218.879.6555
email: hbutcher@ci.cloquet.mn.us

March 13, 2017

SKB Environmental Cloquet Landfill, Inc.
Attn. Mr. John Domke
251 Starkey St
St. Paul, MN 55107

Re: Shamrock Landfill CUP – Special Events

Dear Mr. Domke:

On Friday, March 10, 2017 your company requested the following be considered as a special event in regards to the hours of operation for the landfill:

Xcel Energy has an environmental dredge project this summer on Lake Superior – Chequamegon Bay in Ashland, WI. The material extracted from the lake bottom will have to be landfilled. This project is set to start in mid-May and run through September. The material will be de-watered, solidified and transported to our facility. The estimated volume will be 180,000 +/- 10% tons of material. It is required our facility have hours of material acceptance of Monday-Saturday from 7:00am – 7:00pm. It is estimated that we will receive up to 8 trucks per hour on average to accommodate this volume. The material will be transported in Side-Dump trucks which will limit the amount of backing (back-up alarms) and will not have the potential noise of tail gates slamming.

I have reviewed your request with the City Attorney and have received an opinion from him that this request falls under the special event category that allows you to operate beyond the approved operating hours for this particular event.

Based on this I am approving your request for an additional 2 hours per day, Monday through Saturday, from 5:00 pm to 7:00 pm for the sole purpose of bringing in materials from the Xcel Energy environmental dredge project in Chequamegon Bay in Ashland, WI. You estimate the project will begin in mid-May and run through September. When you have a specific start date please let me know so that I am aware that the project has started. I also request that you let me know when the project is completed.



City of Cloquet
1307 Cloquet Avenue • Cloquet MN 55720

COMMUNITY DEVELOPMENT DEPARTMENT
Holly Butcher, Director
Phone: 218.879.2507 * Fax: 218.879.6555
email: hbutcher@ci.cloquet.mn.us

Again I remind you that the additional hours are only allowed in order to receive materials from the above reference project.

If you have any questions or comments regarding this process, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Cottingham". The signature is fluid and cursive, with a long horizontal stroke at the end.

Al Cottingham
City Planner / Zoning Administrator



FRANK YETKA
DAVID C. PRITCHETT**
WILLIAM T. HELWIG*††***
SARA JANKOFSKY***
BENNETT JOHNSON****
ABAGAIL M. NOUSKA

JOHN M. GASSERT†, *Of Counsel*
DENNIS KORMAN, *Of Counsel*
FLOYD D. RUDY, *Founder (1935-2015)*
LAWRENCE R. YETKA, *Retired*

**Rudy, Gassert, Yetka,
Pritchett & Helwig, P.A.**
A T T O R N E Y S • A T • L A W

March 13, 2017

Al Cottingham
City Planner / Zoning Administrator
1307 Cloquet Avenue
Cloquet, MN 55720

Re: Shamrock CUP - Special Events

Dear Al:

You have asked me for an opinion regarding the definition of *Special Events* found in the Shamrock Conditional Use Permit, specifically with regard to the following project on which SKB/Shamrock Landfill is preparing to bid, described as follows by Shamrock:

Xcel Energy has an environmental dredge project this summer on Lake Superior – Chequamegon Bay in Ashland, WI. The material extracted from the lake bottom will have to be landfilled. This project is set to start in mid May and run through September. The material will be de-watered, solidified and transported to our facility. The estimated volume will be 180,000 +/- 10% tons of material. It is required our facility have hours of material acceptance of Monday-Saturday from 7:00am – 7:00pm. It is estimated that we will receive up to 8 trucks per hour on average to accommodate this volume. The material will be transported in Side-Dump trucks which will limit the amount of backing (back-up alarms) and will not have the potential noise of tail gates slamming.

Shamrock's present approved CUP has the hours of operation specified as follows:

The normal operating hours for waste acceptance at the Landfill will be from 7:00 am to 5:00 pm Monday through Saturday, except during periods of construction (e.g. during landfill liner construction, subgrade construction, or other construction related to cell expansion for the landfill, or construction related to installation of final cover when a cell is being capped) when hours are 7:00 am to 7:00 pm Monday through Friday and 7:00 am to 5:00 pm on Saturdays. ***The Landfill may operate on a 24-hour basis as needed for special events, leachate hauling, and emergency conditions*** (as defined below). When possible, the Owner/Operator will provide written notice to the City and receive City approval when accepting waste outside of normal operating hours. In the event of an emergency where

* Also Licensed to Practice in Wisconsin

† Real Property Specialist, Certified by the Minnesota State Bar Association

** Also Admitted in Texas

†† Patent Attorney, Registered to Practice before the U.S. Patent & Trademark Office

*** Also Admitted in Virginia

**** Admitted in Nebraska

Re: Shamrock CUP - Special Events

March 13, 2017

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written request for approval is not possible, the Owner/Operator must notify the City verbally and follow up in writing within 72 hours after the request providing justification for the changed hours and the estimated time when normal operating hours will resume. *An "emergency condition" is defined as a catastrophic event in the region requiring immediate removal of waste to restore order.*

Shamrock is requesting expanded hours of an additional 2 hours per day Monday through Saturday, for which they are currently approved to be operating for 10 hours per day. Shamrock's CUP allows 24-hour operation for special events, leachate hauling, and emergency conditions. If this special project is determined to be a *special event* under the CUP, it would allow for 24-hour per day operation. As the term *special events* is not defined in the CUP (only *emergency conditions* is) the term must be understood by its usual meaning within the context used.

A special event is a unique or particular activity of some importance, occurring in a certain location for a limited or fixed duration. Under this definition, if MNDOT were going to demolish and replace a local overpass and required 24-hour availability of the landfill over a two week period to keep the project on schedule, I believe that would fall within the definition of a *special event* under the CUP. The project proposed by Shamrock is not that much different, however it is on a much larger scale and over a more extended period of time. The CUP does not use any qualifier such as "unforeseen", which could be used to limit the application of the special event language, and in general use the term *special events* refers to planned activities. The project proposed by Shamrock is not the same as if an overpass collapsed (an unforeseen event) and repairs required 24-hour availability of the landfill until the job was completed, which would fall within the definition of emergency conditions (a catastrophic event in the region). *Special events* also generally refer to events occurring within the local region. However, with regard to a business such as the landfill, the region would necessarily include the area it normally services. If the landfill's service area includes Northern Wisconsin then activities there would be included in the definition.

Based upon the forgoing discussion, I would advise that the extended hours be approved for the requested "special project" without referring to it as a *special event* (however I do believe it qualifies as a *special event*). If the City denies the extended hours for this special project and the decision were challenged in court, a judge could very well decide that this special project meets the requirements of a *special event* which would allow for 24-hour per day operation. It would also be hard to defend denying this request by Shamrock since with the additional 2 hours per day of operation it is still restricting its hours to the same as those of the gravel pit operation on the adjacent property, whose gravel crushing generates considerably more noise than Shamrock's trucks.

Sincerely,



William T. Helwig
Cloquet City Attorney's Office
Rudy, Gassert, Yetka, Pritchett & Helwig, P.A.