

Council Chambers, Cloquet, Minnesota
7:00 P.M. January 2, 2018

Regular Meeting

Roll Call

Councilors Present: Bailey, Bjerkness, Kolodge, Maki, Rock, Mayor Hallback

Councilors Absent: Langley

Pledge of Allegiance

AGENDA

MOTION: Councilor Bailey moved and Councilor Maki seconded the motion to approve the January 2, 2018 agenda. The motion carried unanimously (6-0).

MINUTES

MOTION: Councilor Rock moved and Councilor Bailey seconded the motion to approve the minutes of the Work Session and Regular Meeting of December 19, 2017. The motion carried unanimously (6-0).

CONSENT AGENDA

MOTION: Councilor Bjerkness moved and Councilor Bailey seconded the motion to adopt the consent agenda of January 2, 2018. The motion carried unanimously (6-0).

- a. Resolution No. 18-02, Resolution Authorizing the Payment of Bills and Payroll
- b. Resolution No. 18-01, A Resolution Designating Official Depositories for 2018
- c. 2018 Budgeted Transfers
- d. Ordinance No. 470A, An Ordinance Establishing the City Fees and Charges for 2018
- e. 2018 Official Newspaper
- f. Standing Rules of the Council
- g. Temporary On-Sale Liquor License – Queen of Peace Parish

PUBLIC HEARINGS

There were none.

PRESENTATIONS

There were none.

ACTING MAYOR APPOINTMENT

MOTION: Councilor Bailey moved and Councilor Rock seconded the motion to appoint Councilor Bjerkness as acting Mayor for 2018. The motion carried unanimously (6-0).

SKB CUP AMENDMENT WITHDRAWAL

MOTION: Councilor Kolodge moved and Councilor Maki seconded the motion to approve **RESOLUTION NO. 18-04, A RESOLUTION WITHDRAWING THE CITY COUNCIL FINDINGS MADE IN RESOLUTION NO. 17-09, DENYING A CONDITIONAL USE PERMIT AMENDMENT TO ALLOW FOR THE EXPANDED HOURS OF OPERATION AND TO REMOVE THE LIMITS OF ALLOWED PAPER SLUDGE WASTE FOR SKB ENVIRONMENTAL CLOQUET LANDFILL, INC., F/K/A SHAMROCK LANDFILL, INCL., SUCCESSOR-IN-INTEREST TO SHAMROCK ENVIRONMENTAL, LLC (HEREIN "SHAMROCK LANDFILL"), IN THE HI-HEAVY INDUSTRY DISTRICT.** The motion carried unanimously (6-0).

WHEREAS, an Application has been submitted by Shamrock Landfill to amend their existing Conditional Use Permit which was approved on February 15, 2011 and amended on November 5, 2014. The amendment request is pursuant to 17.2.06 of the City Code, for the 59-acre Industrial Landfill to modify their hours of operation to allow new hours of 7:00 A.M. to 7:00 P.M. seven days a week;

WHEREAS, as required by ordinance, notification was advertised in the Pine Journal and all neighbors within 1320 feet were notified. A public hearing was held to consider the Application at the regular meeting of the Cloquet Planning Commission on December 13, 2016 at which time Zoning Case / Development Review No. 16-20 was heard and discussed;

WHEREAS, the property of the proposed Conditional Use Permit Amendment is located at 761 Highway 45 and is legally described as follows:

That part of the West 390.00 feet of the Northwest Quarter of the Southeast Quarter, Section 25, Township 49, Range 17, Carlton County, Minnesota, which lies southerly of Interstate Highway 35 and northerly of the South 100.00 feet of said Northwest Quarter of the Southeast Quarter.

AND ALSO

That part of the South 100.00 feet of the North Half of the Southeast Quarter, Section 25, Township 49, Range 17, Carlton County, Minnesota, which lies westerly of the right-of-way of the Great Northern Railway (now known as Burlington Northern Santa Fe Railroad).

AND ALSO

That part of the East 600.00 feet of the Northeast Quarter of the Southwest Quarter, Section 25, Township 49, Range 17, Carlton County, Minnesota, which lies southerly of Interstate Highway 35.

AND ALSO

The east 600.00 feet of the Southeast Quarter of the Southwest Quarter, Section 25, Township 49, Range 17, Carlton County, Minnesota.

AND ALSO

The South Half of Southeast Quarter lying West of Great Northern Railway Company's right-of-way (now known as Burlington Northern Santa Fe Railroad), Section 25, Township 49, Range 17, according to the United States Government Survey thereof.

EXCEPT those two parcels lying within the following described tracts;

1. Beginning at a point on the south line of said Section 25, distant 100 feet west of the southeast corner of SW $\frac{1}{4}$ of SE $\frac{1}{4}$ thereof; thence run northeasterly at an angle of 68 degrees 00 minutes with said south line for 475 feet; thence deflect to the left at an angle of 112 degrees 00 minutes for 500 feet; thence deflect to the left at an angle of 68 degrees 00 minutes for 475 feet; thence deflect to the left at an angle of 112 degrees 00 minutes for 500 feet to the beginning.
2. From a point on the south line of said Section 25 distant of 100 feet west of the southeast corner of SW $\frac{1}{4}$ of SE $\frac{1}{4}$, thereof, run northeasterly at an angle of 68 degrees 00 minutes with said south section line for 475 feet to the point of beginning; thence continue northeasterly along the above described course to its intersection with a line run parallel with and distant 660 feet north of the south line of said Section 25; thence run west along said 660 foot parallel line to its intersection with a line run parallel with and distant 992 feet west of the east line of the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 25; thence run south along said 992 foot parallel line to the south line of said Section 25; thence run east along said section line for 392 feet; thence deflect to the left 68 degrees 00 minutes for 475 feet; thence deflect to the right 68 degrees for 500 feet to the point of beginning.

WHEREAS, the Cloquet Planning Commission reviewed the Application to Amend the Conditional Use Permit for Shamrock Landfill to modify their hours of operation to allow new hours of 7:00 A.M. to 7:00 P.M. seven days a week; to remove the limits on the amount of paper sludge waste allowed; and, to allow the acceptance of paper sludge waste at any time of the day or night, per Section 17.2.06 Subdivisions 3 and 4 of the Cloquet Zoning Ordinance, and made findings of fact as follows:

1. The landfill as previously determined had a legal right to establish their business in this location as a land use. After a moratorium on landfills in 2011, landfills are no longer allowed to be established or expanded in the City of Cloquet.
2. The proposed use is compatible with existing development within 300' of the proposed use and within 500' along the same street and development anticipated in the foreseeable future within the neighborhood and conditions would make the use more compatible.
3. The service provided by the landfill is important to the community.
4. The Amended Conditional Use Permit will continue to protect and maintain neighborhood protections for the surrounding neighborhood with these modified hours of operation.
5. This application is in conformance with other requirements of the Cloquet Zoning Ordinance.
6. There are no other factors or additional conditions impacting this application.

WHEREAS, the Cloquet Planning Commission made specific findings regarding modified hours of operation in findings no. 4, and recommended allowing the expansion of hours as requested;

WHEREAS, the Cloquet Planning Commission made no specific findings regarding modified limits on allowed paper sludge waste in their findings, and then recommended raising the limits of allowed paper sludge waste to 40%;

WHEREAS, the Application to Amend the Conditional Use Permit for Shamrock Landfill was thereafter set on for consideration at a meeting of the Cloquet City Council, which matter was then postponed from time to time upon written requests made by Shamrock Landfill, all according to the provisions of Minnesota Statutes Section 15.99, until said matter came on for consideration by the Cloquet City Council on Tuesday, October 3, 2017 at 7 pm, at City Hall, in the council chambers of the City of Cloquet, at which time the City Council did consider said matter;

WHEREAS, the Application to Amend the Conditional Use Permit for Shamrock Landfill was denied by the City Council in all respects by Resolution No. 17-09 for the reasons contained therein, at the Cloquet City Council meeting held on Tuesday, October 3, 2017 at 7 pm, at City Hall, in the council chambers of the City of Cloquet;

WHEREAS, Shamrock Landfill did threaten litigation for the “factually incorrect and illegal Findings for denial,” by the Cloquet City Council, which threat of litigation was made by a letter dated November 30, 2017 from Robert M. Cloninger, Vice President and Deputy General Counsel for Waste Connections, Inc., the parent company of Shamrock Landfill, and in which letter Mr. Cloninger did also propose that the vacating of the offending resolution by the City would eliminate any such threat, following which Shamrock would voluntarily withdraw their Application to Amend the Conditional Use Permit, and agree not to submit another application on those issues for at least one year;

WHEREAS, the City of Cloquet, without admitting to any of Shamrock Landfill’s allegations, did respond to Shamrock Landfill by letter dated December 1, 2017, and request that they withdraw their Application to Amend the Conditional Use Permit for Shamrock Landfill, in Zoning Case 16-20, before their request for withdrawal of the prior Findings in Resolution No. 17-09 would be submitted to the City Council for review;

WHEREAS, Shamrock Landfill did formally withdraw their Application to Amend the Conditional Use Permit for Shamrock Landfill, in Zoning Case 16-20, by letter dated December 12, 2017 from Kyle Backstrom, Site Manager for Shamrock Landfill, and including a good-faith agreement (“understanding”) that Shamrock will not resubmit an application of the same request for a period of 1 year from approval; and,

WHEREAS, the City Council has had a chance to discuss the threatened litigation and proposed resolution thereof with the City Attorney in closed session at the Work Session held at 5:30 pm on January 2, 2018.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA: that the City Council hereby approves the withdrawal of Shamrock Landfill’s Application to Amend the Conditional Use Permit for Shamrock Landfill, in Zoning Case 16-20, and withdraws its Findings made in Resolution No. 17-09 passed at the Cloquet City Council meeting held on Tuesday, October 3, 2017 at 7 pm, at City Hall, in the council chambers of the City of Cloquet in Zoning Case 16-20 denying an amendment to the Conditional Use Permit to modify their hours of operation to allow new hours of 7:00 A.M. to 7:00 P.M. seven days a week, and to remove the limits on the amount of paper sludge waste allowed, for Shamrock Landfill for the following reasons:

1. Shamrock Landfill’s voluntary withdrawal of their Application to Amend the Conditional Use Permit for Shamrock Landfill, in Zoning Case 16-20.
2. Shamrock Landfill’s good-faith agreement that they will not resubmit an application on paper sludge or hours for a period of one (1) year from the approval and adoption of this Resolution. Shamrock Landfill’s good-faith agreement that withdrawal of the Findings made in Resolution No. 17-09 will resolve all issues giving rise to their present threat of litigation.

PUBLIC COMMENTS

There were none.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND UPDATES

There were none.

On a motion duly carried by a unanimous yea vote of all members present on roll call, the Council adjourned.



Aaron Reeves, City Administrator