

Regular Meeting

Roll Call

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

Councilors Absent: None

Pledge of Allegiance

AGENDA

MOTION: Councilor Bailey moved and Councilor Maki seconded the motion to approve the October 3, 2017 agenda. The motion carried unanimously (7-0).

MINUTES

MOTION: Councilor Langley moved and Councilor Rock seconded the motion to approve the minutes of the Work Session and Regular Meeting of September 19, 2017. The motion carried unanimously (7-0).

CONSENT AGENDA

MOTION: Councilor Bjerkness moved and Councilor Maki seconded the motion to adopt the consent agenda of October 3, 2017, approving the necessary motions and resolutions. The motion carried unanimously (7-0).

- a. Resolution No. 17-81, Resolution Authorizing the Payment of Bills
- b. Resolution No. 17-82, A Resolution Approving Exempt Permit to Conduct A Raffle Event At Cloquet National Guard Armory – North Shore Wrestling Club

PUBLIC HEARINGS

There were none.

PRESENTATIONS

There were none.

TOBACCO LICENSE SUSPENSION – WAL MART LIQUOR BOX

MOTION: Councilor Kolodge moved and Councilor Bjerkness seconded the motion to suspend the retail tobacco license at Wal Mart Liquor Box, 1308 South Hwy 33, for ten (10) days effective upon proper notice being provided to the business owner. The motion carried unanimously (7-0).

2016 AUDIT RESULTS

MOTION: Councilor Bailey moved and Councilor Langley seconded the motion to accept the 2016 audit results as prepared by Wipfli, LLP. The motion carried unanimously (7-0).

2016 FUND BALANCE POLICY PLAN

MOTION: Councilor Bjerkness moved and Councilor Rock seconded the motion to approve the 2016 Fund Policy Plan. The motion carried unanimously (7-0).

APPOINTMENT OF ADMINISTRATIVE POLICE SECRETARY

MOTION: Councilor Rock moved and Councilor Langley seconded the motion to approve the six-month probationary appointment of Haley Templin to the position of Administrative Police Secretary. The motion carried unanimously (7-0).

CONDITIONAL USE PERMIT: SKB ENVIRONMENTAL / SHAMROCK LANDFILL

MOTION: Councilor Rock moved and Councilor Bailey seconded the motion to adopt **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, INC., SUCCESSOR-IN-INTEREST TO SHAMROCK ENVIRONMENTAL, LLC (HEREIN "SHAMROCK LANDFILL"), IN THE HI – HEAVY INDUSTRY DISTRICT. The motion carried unanimously (7-0).

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 ¼ of SE ¼ 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 ¼ of SE ¼, 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 ¼ of SE ¼ 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%; and,

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.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CLOQUET, MINNESOTA: that the City Council denies Zoning Case 16-20 for 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. Our expert has determined that they have been in violation of their CUP for two of the last 3 years based upon tonnage of paper sludge waste received according to their own records.
2. They have been and are in violation of their CUP and Odor Management Plan by failing to take appropriate steps to eliminate the odor leaving the property as required, and have failed to even mitigate the odor leaving the property which at the very least is a direct nuisance to neighboring properties, residents, and anyone traveling through the area.
3. The requested hours of operation expansion is beyond the original hours agreed upon at the time the original permit was granted, which hours were based upon a finding by the City Council that *the reduced hours of operations, added as a new concession (by Shamrock Landfill), and the other terms of the Final Conditional Use Permit, provide for adequate neighborhood protections and for reasonable peace, comfort and welfare of persons residing or working in the surrounding area.* (Resolution No. 11-11).
4. The expansion of hours requested exceeds the operating hours of similar heavy industry zoned businesses in close proximity to the Landfill with regard to requested operating hours on Sunday, which the Planning Commission failed to address in their findings.
5. The neighborhood residents have expressed concern about expanded hours interfering with the quiet enjoyment of adjacent residential homes based upon increased noise, dust and odor concerns stated at the public hearing.
6. When the original permit was granted it was determined that as long as tonnage of paper sludge was 20% or less it would not be necessary to monitor landfill gas; and safety concerns, including fire, are not a present threat. Any increase above 20% will require enhanced monitoring of potential concerns, including fire, odor and gases not previously a concern, which 20% cap was based upon a finding by the City Council that *evidence was presented that pulp and paper sludge degradation may generate landfill gas that contains both methane and hydrogen sulfide. Under certain conditions, methane can contribute to a landfill fire; landfill gas emissions that contain hydrogen sulfide can result in odor impacts to adjacent properties. As a result of these concerns brought forward by the City and City residents, the applicant has agreed to limit their intake of such waste, held to no more than 20% of receipts.* (Resolution No. 11-11).
7. The Landfill continues to land fill material from the Ashland Superfund site that contains, according to the Material Safety Data sheet, a known carcinogen that is hazardous when inhaled above certain concentrations. It is in the best interests of the residents to continue to restrict the paper sludge waste to prevent any possibility of the many known possible threats to the safety and welfare of the surrounding areas. Possible threats being, but not limited to, methane release, methane explosion, underground fire, and spontaneous combustion. Any number of which could release this known carcinogen into the air, or which could damage the liner system rendering it ineffective, releasing this known carcinogen into the ground water, thereby threatening the safety of the residents of Cloquet.
8. The Planning Commission did not make any specific findings with regard to their recommendation to increase allowable paper sludge waste to 40%, which appears to be an arbitrary number, whereas our expert has agreed 20% is still a proper operable level not to be exceeded without additional conditions as expressed in his response to the WENCK report.
9. The Landfill is not following best practices standards regarding paper sludge waste, and an increase represents additional environmental and safety risks not agreed to in the original permit, and the City Council does not have confidence the City will be protected from such safety risks, even if additional monitoring were implemented.
10. Expanded hours and expanded landfilling of paper sludge waste would each represent the expansion of a non-conforming use, since the City no longer allows any new landfills or the expansion of existing landfills within the city under the City Zoning Ordinance. Any expansion beyond the scope originally agreed would therefore represent a prohibited use under the Cloquet Zoning Ordinance.

PUBLIC COMMENTS

- Clarence Badger, Moorhead Road, addressed the Council regarding debris left on Highway 45 from trucks exiting the landfill, stating his vehicle is being coated with contaminants from the landfill. He has been told by the state that they will look into this issue seriously, and was ensured it will be cleaned up.
- John Sanders, 201 Boulder Drive, commended the Council for standing up to this Minneapolis based firm. He is concerned that exceeding the current 20% sludge cap will result in the landfill becoming a municipal landfill.
- Barb Wyman, Nelson Road, thanked the Council for their work. Ms. Wyman stated she filed a formal complaint with the City on September 15, 2017 and had not received a response. Ms. Wyman continued by asking for answers to various questions regarding the CUP and actions taken. Mayor Hallback asked Ms. Wyman to put any requests for information in writing.
- John Badger, Valley View, expressed his thanks to the Council for taking action on the Shamrock Landfill CUP.
- Micky Hunter, Cloquet, addressed the Council by following up on a letter to the editor he wrote to the Pine Journal regarding recouping the financial loss the city faced due to the Teamsters filing an unfounded claim.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND UPDATES

There were none.

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

Aaron Reeves, City Administrator