

**MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF EAST GULL LAKE, COUNTY OF CASS, STATE OF MINNESOTA
REGULAR SESSION HELD AT CRAGUN'S LEGACY CLUBHOUSE
September 1, 2020
6:30 PM**

Mayor Kavanaugh called the September 1, 2020 regular Council meeting held at Cragun's Legacy Clubhouse to order at 6:30 PM.

The pledge of allegiance was recited.

ROLL CALL

Present: Mayor Kavanaugh, Councilors Bergin, Ruttger, Demgen and Hoffmann, City Administrator Mason, Planning Commission Chair Bruce Buxton, Public Works Director Jasmer, Administrative Assistant Schack

Absent: None

Audience: Paul Anderson, Matthew Loven, Mary Ann Anderson, Bernie McDonough, Marty Halvorson, Jim Aleff, Sandra Rada-Aleff, Shane Jordan, Steph Ouren, Paul Ouren, Uldis Birznieks, Dave Turnberg, Doug Schieffer, Ken Riley, Janelle Riley, Lisa Gudajtes, Randy Bauernfeind, Emily Bauernfeind, Christina Hart, Jerry Stromberg, Deb Thuringer, Rocky Waldin, Jennie Ward, Jim Ward, Nealna Gylling, Nathan Tuomi, Herm Schley, Don Gylling, Barb Allan, Sharon Gibbons, Barb Gmitro-Best, Steven Best, Tom Malat, Theresa Bourke, George Hart, Paul Maki, Kevin Smith, Vicki Smith, Jim English, Tom Ward, Joanie Ward

ADOPTION OF AGENDA

4a. Additions: **7b. Ruth Lake overflow drain issue**

4b. Deletions:

Councilor Demgen moved and Councilor Bergin seconded the motion to approve the agenda as presented. All present voted in favor thereof. Motion carried.

ADOPTION OF CONSENT AGENDA

Councilor Bergin moved and Councilor Ruttger seconded the motion to approve the following Consent Agenda items. All present voted in favor thereof. Motion carried.

5a. July 7, 2020 City Council Meeting Minutes

5b. Financial Report

- ◆ July, 2020 bank statement information:
 - Checking Account:
 - Total Additions: \$392,492.40
 - Total Subtractions: \$379,284.15
 - Ending Balance: \$175,903.19
 - Interest Earned to date: \$7.92
 - Money Market Account:
 - Total Transfer Additions: \$200,200.00
 - Total Transfer Subtractions: \$50,000.00
 - Interest Earned: \$88.20
 - Ending Balance: \$653,931.57
 - Interest Earned to date: \$1,553.81
- ◆ Approve August, 2020 Check Register
 - Claims 20746 to 20772 for total amount of \$402,688.08
- ◆ Approve August, 2020 payroll EFT payments

- EFT Payroll: \$17,390.21; EFT Transmittals: \$14,842.86
- ◆ Monthly Budget Report, Delinquent WW Customers Report

PLANNING & ZONING

6a. Helipad Issue

Chair Buxton addressed the Council regarding the Planning Commission meeting. He stated the helipad discussion and noted the motions made. The proposed amendment was defeated.

Another motion was made denying the use within City limits including R1, R2, and R3 and was approved by a 3 to 2 vote. The following findings of fact were read:

1. On July 28, 2020, the East Gull Lake Planning and Zoning Commission held a public hearing to consider a proposed amendment to its Zoning Ordinance that would include private helipad usage as an allowed use within the City. Proper notice of this hearing was provided, pursuant to Section 8.12 – 4 of the East Gull Lake City Code, and Minn. Stat. § 415.19.
2. Section 8.12 – 4 of the East Gull Lake City Code governs amendments to the Zoning Ordinance:

The City Council may adopt amendments by 4/5 vote to either the Zoning Ordinance, Zoning Map or Overlay Maps in relation to the Land Uses within a District or the boundaries of the District(s). Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the City.
3. Section 8.2 – 1 of the East Gull Lake City Code notes that the Zoning Ordinance was adopted for the purpose of furthering the following goals (among others):
 - Protecting the public health, safety, comfort, convenience and general welfare.
 - Inaugurating and effectuating the goals of the Comprehensive Plan; and,
 - Conserving the natural and scenic beauty and attractiveness of the City, for the health and welfare of the public.

Any amendment to the Zoning Ordinance should be consistent with these goals and will be interpreted in light of them.
4. At the public hearing, testimony and arguments were given in support of the amendment, and in opposition to the amendment.
5. Based upon all of the record, including the testimony and arguments at the public hearing, the City Planning Commission has found the following facts to be true in support of its decision to deny the proposed amendment to the Zoning Ordinance.
6. The proposed amendment allows the City Council to grant a Conditional Use Permit for the construction of a private helipad within the city limits, subject to the required conditions. Absent such an amendment, construction of a private helipad is not allowed in East Gull Lake. This means that the issue is whether it should ever be appropriate to allow a private helipad in East Gull Lake. The issue is not whether helicopters can operate within East Gull Lake airspace – this City cannot bar helicopter use in its airspace, which is outside its jurisdiction.
7. Under the proposed amendment, the following minimum conditions must be met before the Conditional Use Permit for a helipad would be granted:
 - Property must contain a minimum of five acres.
 - Property owner must acquire a MnDOT Aeronautics Permit due to the proximity of the East Gull Airport being within six miles of any applicant residence in the City.
 - Property owner is limited to commuting and storage of the helicopter on site. Two takes offs and landings per day maximum allowed.
 - All recreational flights will be done from the East Gull Lake Airport.
 - Flight times will be limited to 7:00 a.m. or dawn to dusk.
 - Adequate proof of insurance to be filed with the City.
 - No take off in any instance in winds exceeding 20 knots.
 - VFR Conditions are as follows: Visibility: For visual flight below 2,000 AMSL, visibility must be at least five miles. When visibility is less than the required minimum, aircraft may not take off under VFR. Once airborne, a VFR guided aircraft must change altitude, divert or land if visibility falls below the specified minimum.
8. In making its decision, the City Planning Commission has evaluated the following considerations:
 - Regulatory Control – A private helipad must be licensed pursuant to Minnesota Administrative Rules, Chapter 8800, Section 2100, and comply with its requirements. Furthermore, a private

helipad is allowed within Cass County, Minnesota, pursuant to Land Use Ordinance #2018-02: “A private airport or heliport requires a conditional use permit and shall be subject to the following criteria: A) Conforms to all applicable state and federal regulations; and B) Use of the airport is limited to the property owners or, where there is an association, limited to the association owners.” However, these state and local rules, in combination with the minimum conditions set forth in the proposed amendment, do not provide sufficient regulatory control over the construction and operation of a helipad.

- Enforcement – An allowed helipad, under the proposed amendment, would be subject to revocation by the City Council, for any non-compliance with its Conditional Use Permit. Continued use in violation of a revoked Conditional Use Permit would be prosecuted by the City either civilly or criminally as a misdemeanor. The State of Minnesota would be responsible for enforcing state regulations relating to the license granted to operate the helipad. Furthermore, the Fire Marshall would be responsible for enforcing all State of Minnesota fire code relating to helipads. However, the City of East Gull Lake lacks the ability to provide oversight over the use of helipads and cannot ensure compliance with its conditions. Like many zoning issues, the regulation of helipads would simply rest upon residents reporting upon other residents. This can lead to a lengthy process of revocation, and prosecution, that would not provide immediate redress of unsafe practices. There are no helipad “inspectors” in East Gull Lake to ensure safe operating procedures and compliance.
 - Safety – Some experts claim that the risk of helicopter accidents near helipads are considered to be “extremely rare.” See: R.J. Adams, E.D. McConkey, L.D. Dzamba, R.D. Smith, DOT/FAA/RD-90/9, “Analysis of Helicopter Accident Risk Exposure Near Heliports, Airports and Unimproved Sites”, Feb 1992. But there are still risks associated with helicopters landing and taking off in residential areas – especially considering the amount of fuel they carry. No licensing or compliance with regulations, can guarantee the safe operation of a helicopter – there is always the risk of human error or mechanical malfunction. Pillager Fire Department appears to have adequate equipment, but there is no assurance of that departments ability to respond to a catastrophe of unknown quality.
 - Noise – Operation of a helipad for landing and takeoff for commuting purposes only, with a maximum of two per day per helipad site, results in noise pollution. Each landing or takeoff, despite lasting less than 90 seconds to 2 minutes, significantly intrudes upon neighbors’ quiet use of their property. Despite its decibel levels being comparable to other uses, such as seaplanes, motorboats, etc., it is still a reminder that a helicopter is landing or taking off, and has a distinct sound.
 - Fuel and Oil – Storing a helicopter at a helipad, along with a temporary fueling station, poses a possible risk of a fuel spill, although a small risk.
 - Wildlife – Helipad usage within the City of East Gull Lake means that helicopters will be landing and taking off near existing bald eagle and loon habitat. Not only could this directly cause loon and bald eagles to be struck in-flight, but also, it may cause them to be driven off due to the noise and/or air pollution.
 - Existing Uses – East Gull Lake is currently home to a public airport which averages 83 flights per month, and two sea plane bases on Gull Lake – one of which is private-use only. These aeronautical resources should be sufficient for residents to use, without adding more complicated air traffic through new landing sites with different kinds of aircraft.
 - Community Support – Over two hundred residents of East Gull Lake have voiced significant opposition to allowing helipad usage in the City. This outcry is representative of the vision and goals of the community as a whole.
 - Comprehensive Plan – Amendments to the Zoning Ordinance should be a “means to reflect changes in the goals of the community or changes in the conditions of the City.” See: Section 8.12 – 4 of the East Gull Lake City. These “goals” are summarized and articulated in the Comprehensive Plan, as revised in 2017. The Comprehensive Plan notes that a significant component of the City is made-up of “high-density seasonal cabins and year-round homes” along Gull Lake, and at same time is focused on ensuring that the City “naturally perpetuate the character that makes our community a special place to live, work, and recreate.” (pp. 4-5). For this reason, the plan emphasizes the need to protect its unique environment and maintain the “solitude of a peaceful life.” (pp. 5-6). Helipad usage is not consistent with these community goals and should not be allowed.
9. Conclusion – When seen as a whole, the facts support denying the proposed amendment to the East Gull Lake City Code to include “Helipad” as an allowed use in the City.

Councilor Bergin moved and Councilor Hoffmann seconded to approve motion recommended by the Planning Commission for denial of the proposed amendment to allow helipad usage within city limits with a Conditional Use Permit. All present voted in favor thereof. Motion carried.

Councilor Ruttger moved and Councilor Bergin seconded to approve motion to amend the City Ordinance stating helipad usage in the R1, R2, R3 be a specifically excluded use. Mayor Kavanaugh: nay, Councilor Bergin: aye, Councilor Hoffmann: aye, Councilor Demgen: nay, Councilor Ruttger: aye. Motion denied.

6b. McDonough Deck Violation

Chair Buxton addressed the Council regarding the construction of the McDonough deck in violation of the ordinance. It was noted that the Commission voted to have the deck removed due to the violation and safety issues. It was asked if there was a lawsuit should someone get hurt the City could be liable. Attorney Pearson stated the City could be held liable. Mr. McDonough addressed the Council stating he would be able to reinforce the posts by constructing a barrier. Mayor Kavanaugh questioned the sturdiness of the deck by the way it is anchored into the bank. Discussion ensued and it was decided to uphold the Planning Commission decision to require removal of the deck.

Councilor Hoffmann moved and Councilor Demgen seconded the motion to approve recommendation for Mr. McDonough to remove the deck due to no permit violation and safety issues. All present voted in favor thereof. Motion carried.

OPEN FORUM**

7a. Ruth Lake overflow drain issue

Councilor Ruttger addressed the Council regarding lowering the water level of Ruth Lake to the OHW. He noted the results study was done. He also noted the association was formed. He noted he would like the City Attorney to begin preparing agreements between the EGL Association and the City and Ms. Mills and the City. He noted the EGL Association would reimburse the City for any costs incurred by the attorney and by maintenance of the drainage ditch.

Councilor Bergin moved and Councilor Hoffmann seconded the motion to request City Attorney Pearson to draft agreements between EGL Association and the City of East Gull Lake and Ms. Mills and the City of East Gull Lake to construct a drainage ditch for Ruth Lake, noting that the City would be reimbursed by the EGL Association for services rendered by Attorney Pearson and any maintenance done on the drainage ditch. Mayor Kavanaugh, Councilors Bergin and Hoffmann voted in favor thereof. Councilors Ruttger and Demgen abstained. Motion carried.

WASTEWATER & ROAD REPORT

8a. Progress for RFP interview process

Wastewater Superintendent Jasmer addressed the Council regarding the RFPs and the interviews. He noted the committee will make a recommendation at the October meeting. Mayor Kavanaugh noted Abbey Pieper did a very good job putting together a spreadsheet summarizing all the information. Councilor Bergin noted the committee put a lot of work into the process.

PUBLIC SAFETY

9a. Administrator Mason noted this Thursday, September 3rd will be the last mosquito fogging for the season.

PARK & TRAILS

10a. Patch completed by Tall Pine Ln

Photos were shown of the repair of the trail and it was noted that the job was well done.

Discussion ensued regarding cutting brush along the trail.

PERSONNEL COMMITTEE

No Report

BUDGET COMMITTEE

12a. Discussion ensued regarding the proposed budget. Levy amounts for Proposed Certificate of Levy for 2021 were approved.

2021 Budget

FUND	CERTIFIED LEVY
General Fund-100	\$144,000.00
Public Safety-225	\$67,900.00
Roads, Streets, & Highway-303	\$156,000.00
GO Bond 2015 Road Improvements-304	\$157,000.00
GO Bond 2013 Road Improvements-305	\$70,000.00
Parks & Recreation-404	\$28,000.00
Planning & Zoning-407	\$55,000.00
WW Plant Expansion-301	\$173,000.00
TOTAL CERTIFIED LEVY	\$850,900.00

Resolution made by Councilor Ruttger and seconded by Councilor Demgen to approve the proposed 2021 budget. All present voted in favor thereof. Motion carried by 5/5 roll call vote.

MAYOR’S REPORT

None

CITY ADMINISTRATOR REPORT

14a. Resolution 09: 01-20 – Gambling Premises Permit for Confidence Learning Center at Legacy Courses at Cragun's

Councilor Ruttger moved and Councilor Hoffmann seconded, the motion to adopt Resolution 09: 01-20 – a gambling premises permit to be held by Confidence Learning Center at Legacy Courses at Cragun's; absent: none. All present voted in favor thereof. Motion carried by 5/5 roll call vote.

OLD BUSINESS

None

NEW BUSINESS

None

NEXT REGULAR SESSIONS OF CITY COUNCIL/OTHER MEETINGS

- Park & Trails Committee Meeting..... Wednesday, September 23, 2020 at 3:00pm
- Planning and Zoning Meeting Tuesday, September 29, 2020 at 6:30pm
- Wastewater & Road Committee Meeting..... Wednesday, September 30, 2020 at 3:00pm
- City Council Meeting Tuesday, October 06, 2020 at 6:30pm

Councilor Ruttger moved and Councilor Bergin seconded the motion to adjourn the meeting. All present voted in favor thereof. Motion carried.

Transcribed by East Gull Lake Administrative Assistant
Kathy Schack

These minutes are paraphrased and are not written word for word.

***CONSENT AGENDA ITEMS** are considered to be routine and noncontroversial by the Council and will be approved by one motion. There will be no separate discussion for decision of these items unless a Councilmember, staff member, or citizen so requests due to a speculative controversy, in which case the item will be removed from the consent agenda and considered under the regular agenda.

****OPEN FORUM** allows the public to speak to the Council regarding issues that are not on the agenda.

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