

MINUTES, REGULAR MEETING
CITY COUNCIL, CITY OF LA CRESCENT, MINNESOTA
DECEMBER 8, 2014

Pursuant to due call and notice thereof, the first meeting of the City Council of the City of La Crescent for the month of December was called to order by Mayor Mike Poellinger at 5:30 PM in the La Crescent City Hall, La Crescent, Minnesota, on Monday, December 8, 2014, followed by the Pledge of Allegiance.

Upon a roll call taken and tallied by the City Administrator, the following members were present: Members Bernie Buehler, Greg Husmann, Brian Krenz, Dale Williams and Mayor Mike Poellinger. Members absent: None. Also present was City Administrator Bill Waller and City Attorney Skip Wieser.

Mayor Poellinger asked if anyone wished to take action to change the agenda as presented. There were no changes requested.

ITEM 1 – CONSENT AGENDA

At this time, the Mayor read the following items to be considered as part of the Consent Agenda for this regular meeting:

- 1.1 MINUTES – NOVEMBER 24, 2014
- 1.2 BILLS PAYABLE THROUGH DECEMBER 4, 2014
- 1.3 CASH BALANCE/ACTIVITY REPORT – OCTOBER 2014
- 1.4 LIBRARY REPORT – OCTOBER 2014

At the conclusion of the reading of the Consent Agenda, Mayor Poellinger asked if the Council wished to have any of the items removed from the Consent Agenda for further discussion. Member Buehler made a motion, seconded by Member Williams, as follows:

A MOTION TO APPROVE THE CONSENT AGENDA AS PRESENTED

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.1 – NO PARKING REQUEST

City Council reviewed an agenda request and La Crescent Police Chief Doug Stavenau reviewed with Council the consideration of a No Parking area on the east side of Grandview Court in the 1400 block. The resident also expressed a concern about vehicles parking too closely to the intersection with South 14th Street. Chief

Stavenau would like to look at enforcement in the area without the addition of signage and will direct the department to do so. It was the consensus to table this item until after first of new year. No action taken.

ITEM 3.2 – AUTHORIZE SQUAD CAR PURCHASE

La Crescent Police Chief Doug Stavenau reviewed with City Council a request for permission to proceed with the purchase of a new squad car for 2015. The intent would be to replace the 2010 Dodge Charger that has approximately 111,000 miles on it. The budgeted funds would be used out of the 2013 Capital Equipment Certificate. Chief Stavenau would like to start the process early in hopes of finding a 2014 model Dodge Charter to match the current fleet and to put the vehicle into service earlier in the year. It was recommended to Council to approve the 2014 Minnesota State Contract price of \$29,777.79 to be directed towards this purchase. Following discussion, Member Husmann made a motion, seconded by Member Krenz, as follows:

MOTION TO APPROVE THE PURCHASE OF A NEW SQUAD CAR BY THE LA CRESCENT POLICE DEPARTMENT WITH FUNDS FROM THE 2013 CAPITAL EQUIPMENT CERTIFICATE AT THE 2014 MINNESOTA STATE CONTRACT PRICE OF \$29,777.79.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.3 – GRANT AGREEMENT RESOLUTION

City Council reviewed a memo from Chief Doug Stavenau of the La Crescent Police Department regarding a Minnesota Department of Public Safety Grant to help offset some of the mobile computer costs toward the implementation of LETG (Law Enforcement Technology Group) computer software. The grant is a 50% cost sharing grant to be used for the specific purchase of mobile squad car component equipment. If approved to participate, it is anticipated an approximate \$8,000.00 of funds would be contributed by the State of Minnesota. Following discussion, Member Husmann introduced the following resolution and moved its passage and adoption:

RESOLUTION NO. 12-14-27

A RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT WITH THE MINNESOTA DEPARTMENT OF PUBLIC SAFETY

WHEREAS, the City of La Crescent received a request from the City of La Crescent Police Department to enter into a grant agreement with the Minnesota Department of Public Safety for traffic projects; and

WHEREAS, the Chief of Police for the La Crescent Police Department would execute such agreements and amendments to implement the project and be the fiscal agent and administer the grant.

NOW THEREFORE BE IT RESOLVED, by the La Crescent City Council:

1. That the City of La Crescent Police Department enters into a grant agreement with the Minnesota Department of Public Safety, for traffic safety projects during the period from October 1, 2014 through September 30, 2016.

2. That the Chief of Police is hereby authorized to execute such agreements and amendments as are necessary to implement the project on behalf of the La Crescent Police Department and to be the fiscal agent and administer the grant.

ADOPTED this 8th day of December, 2014.

SIGNED:

Mayor

ATTEST:

City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by Member Krenz and upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried and the resolution duly passed and adopted.

ITEM 3.4 – DEPUTY FIRE MARSHALL RECOMMENDATION

City Council reviewed a recommendation from La Crescent Fire Chief John E. Meyer to consider Firefighter Tom Paulson for the position of Deputy Fire Marshall with the La Crescent Fire Department. Firefighter Paulson meets or exceeds all of the requirements set forth by the Department's Rules and Regulations for the Deputy Fire Marshalls position. Firefighter Paulson has also been active with the Fire Prevention program, is Officer 1 certified, has Arson Awareness training and is familiar with State Fire Codes and local Fire Ordinances. It is recommended that if approved, his appointment begin immediately. Following discussion, Member Williams made a motion, seconded by Member Husmann, as follows:

MOTION TO APPROVE THAT FIREFIGHTER TOM PAULSON BE HIRED FOR THE POSITION OF DEPUTY FIRE MARSHALL WITH THE LA CRESCENT FIRE DEPARTMENT, EFFECTIVE IMMEDIATELY WITH A 12 MONTH PROBATIONARY PERIOD.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.5 – HIRING RECOMMENDATION – FIREFIGHTERS

It was recommended to City Council by La Crescent Fire Chief John E. Meyer to approve the hiring of the following for employment as Firefighters for the City of La Crescent:

1. Dean Lewis
2. Todd Duerwachter
3. Levi Kathan
4. Josh Tarrence
5. Eric Lambrecht
6. Michael Wiczek
7. William Tippery
8. Troy Brindle

All of the candidates have successfully completed all the criteria set forth by the City of La Crescent and the La Crescent Fire Department. If approved, it is recommended that they begin their employment on January 1, 2015. Following discussion, Member Husmann made a motion, seconded by Member Buehler, as follows:

MOTION TO APPROVE THE HIRING OF DEAN LEWIS, TODD DUERWACHTER, LEVI KATHAN, JOSH TARRENCE, ERIC LAMBRECHT, MICHAEL WICZEK, WILLIAM TIPPERY, AND TROY BRINDLE AS FIREFIGHTERS FOR THE LA CRESCENT FIRE DEPARTMENT EFFECTIVE JANUARY 1, 2015, WITH AN 18 MONTH PROBATIONARY PERIOD.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.6 – PLANNING COMMISSION SUMMARY – 12/2/14

Planning Commission Chairman Don Smith gave an overview to City Council of the Planning Commission meeting held on December 2, 2014, which included Senior Housing review, LED sign regulation and ordinances, annexation, and new comprehensive plan for the City of La Crescent. This was for informational purposes. No action taken.

ITEM 3.7 – OAK STREET PROJECT UPDATE

City Engineer Tim Hruska reviewed with City Council on the progress of the design alternatives for the Oak Street reconstruction project, along with an update on the proposed extension of South 7th Street to the State Highway. The alternatives will be presented at a Council Meeting in January, 2015. The intent would be to invite the property owners in the area to the meeting in January when the concepts are presented. City Administrator Waller reviewed the time frame for the improvement project and it is uncertain whether it will be in 2015 or 2016 due to budget questions on state funding. No action taken.

ITEM 3.8 – WELL #2 EVALUATION

City Engineer Tim Hruska reviewed with City Council an evaluation to connect an additional raw water supply well to the City's water supply and treatment center. There were two options identified by City Staff. The first option would refurbish and connect existing Well #2 to the City's radium removal facility by constructing a new raw water main from Well #2 to a point of connection near existing Well #4. The second option examines abandoning existing Well #2 and constructing a new raw water supply well near the radium removal facility. It was the consensus to include this as an agenda item after the first of the new year for infrastructure review. No action taken.

ITEM 2 – PUBLIC MEETING – 2015 GENERAL FUND BUDGET AND LEVY

It being 6:00 PM, Mayor Poellinger opened the public meeting on the 2015 General Fund Budget and Levy. Administrator Waller gave an overview explaining the budget process. There were questions from Council Members regarding various budget items. The Mayor then asked if anyone present in the audience wished to make comments. Cheryl Jostad had a question regarding the difference between 4.8% and 4.0% and removal of software and rifles for the Police Department. The public meeting was then closed.

Following discussion, Member Buehler made a motion, seconded by Member Krenz, as follows:

MOTION TO ADOPT THE 2015 GENERAL FUND BUDGET AS PROPOSED.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried. Council then reviewed the preliminary levy resolution that the City Council adopted in September of 2014. There are two items in the capital equipment budget that could be shifted from the general fund budget to the capital equipment certificate. These items are the other half of the LETG software and the three Police Department rifles. This would reduce the general fund budget by \$18,290.00. This would reduce the proposed increase from 4.8% to 4.0%. Following review and discussion on this information, Member Williams introduced the following resolution and moved its passage and adoption:

RESOLUTION 12-14-28

**RESOLUTION MAKING FINAL GENERAL LEVIES FOR
COLLECTION WITH REAL ESTATE TAXES PAYABLE IN THE
CALENDAR YEAR 2015**

BE IT RESOLVED by the City Council of the City of La Crescent, Minnesota as follows:

1. It is hereby determined and declared that there shall be and there is hereby levied upon all taxable property within the City for the general purposes of the City, as provided by law, to be collected in the year 2015 as part of the general taxes due and payable in the year 2015 a direct ad valorem tax in the amount of \$1,605,968.00 as provided by State law to be levied and collected in the manner provided by law.
2. Be it also hereby determined and declared that there shall be and there is hereby levied upon taxable property within the City of La Crescent for public library service, a tax in the amount of \$124,072.00 to be collected in the year 2015, as authorized by Minnesota Statutes, Section 134.33 and 134.34.
3. It is hereby found, determined, and declared that the amounts set forth in a column at the right to be levied with taxes to be collected in the calendar year 2015, in conjunction with the various bonds issued and sinking funds described below:

FUND #	YEAR	DESCRIPTION	TO BE LEVIED FOR COLLECTION IN CALENDAR YEAR 2015
101	2012	Tax Abatement	\$7,200.00
325	2011B	G.O. Recreational Facility Bonds	\$211,170.00
322	2009A	G.O. Refunding Bonds	\$142,542.00
324	2011A	G.O. Improvement Bonds	\$34,000.00
326	2013A	G.O. Equipment Certificate	\$144,100.00
		TOTAL DEBT SERVICE LEVY	\$539,012.00

4. Total levy for the City of La Crescent for collection in 2015 is \$2,269,052.00.

ADOPTED this 8th day of December, 2014.

SIGNED:

Mayor

ATTEST:

City Administrator

The motion for the adoption of the foregoing resolution was duly seconded by Member Krenz and upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried and the resolution duly passed and adopted.

The Public Meeting ended at 6:20 P.M. and City Council resumed the agenda.

ITEM 3.9 – WELLHEAD PROTECTION PLAN UPDATE

City Engineer Tim Hruska gave an overview to City Council on Phase 2 of the Wellhead Protection Plan that has been on hold during the Well #2 Evaluation project. There have been discussions with the Minnesota Department of Health. If the City chooses to keep the Well #2 in production, the Phase 1 document will be modified to include the Well in the plan before Phase 2 begins. A Phase 2 kick off meeting is currently being scheduled with the Department of Health. The option for Well #2 selected by the Council will be presented at that meeting. The Department of Health has requested that a formal extension request be submitted for completing Phase 2. This was for informational purposes. No action taken.

ITEM 3.10 – STONEY POINT ENGINEERING AGREEMENT

City Engineer Tim Hruska reviewed with City Council a Professional Services Agreement to prepare layouts for the Stoney Point property that was recently purchased by the City. One layout will be minimal development (only a few housing units) and be focused on retaining most of the area in its current state. The second layout will be a moderate approach to the development. This layout will work to enhance the area, develop a modest number of housing units, and exceed the minimum requirements for the development. Following discussion, Member Williams made a motion, seconded by Member Buehler, as follows:

MOTION TO ACCEPT THE PROFESSIONAL SERVICE AGREEMENT BETWEEN THE CITY OF LA CRESCENT AND WHKS & CO. FOR SERVICES RELATING TO PREPARING LAYOUTS FOR THE STONEY POINT PROPERTY THAT WAS RECENTLY PURCHASED BY THE CITY WITH AN ESTIMATED FEE OF \$10,250.00 INCLUDING EXPENSES.

Upon a roll call vote taken and tallied by the City Administrator, the following Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

with Member Greg Husmann voting against the same. The motion was declared duly carried by a 4-1 vote.

ITEM 3.11 – TENTATIVE AGREEMENT – AFSCME UNION

The City has reached a tentative agreement with the AFSCME Union. The agreement is as follows:

1. Sick Leave – language change in accordance with State statute.
2. Severance compensation – paid at 60% with 120 calendar days’ notice of retirement.
3. Insurance – no increase in City contribution for 2015. In 2016, increase City contribution by \$25 per month single, and \$50 per month family.
4. Compensation – 1.5% increase for 2015, and 2.0% for 2016.
5. Term – two year agreement.
6. Salary scheduled – add new step, step 6, which is a 2.0% increase from step 5, for employees with 10 years of experience with the City.
7. Vacation – reduce vacation accrual from 1½ years accrual to 1 year accrual.

It was recommended to City Council to approve the contract settlement as proposed. Following discussion, Member Williams made a motion, seconded by Member Husmann, as follows:

MOTION TO APPROVE THE CONTRACT SETTLEMENT WITH THE AFSCME UNION AS PROPOSED ABOVE.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.12 – PERSONNEL COMMITTEE RECOMMENDATION

The Personnel Committee recommended to City Council the following wage/benefit increases for City employees that are not represented by a bargaining unit:

1. Insurance – no increase in City contribution for 2015. In 2016, increase City contribution by \$25 per month single, and \$50 per month family.

2. Compensation – 1.5% increase January 1, 2015, and 2.0% increase January 1, 2016.

This is identical to the increases that are included in the tentative agreement with the AFSCME union. The following City employees are not represented by a bargaining unit, and are included in this year's proposal: City Administrator, Finance Director, Police Chief, Golf Course Superintendent, and the members of the Fire Department. Following discussion, Member Husmann made a motion, seconded by Member Williams, as follows:

MOTION TO APPROVE THE PROPOSED 2015/2016 WAGE/BENEFIT INCREASES FOR CITY EMPLOYEES THAT ARE NOT REPRESENTED BY A BARGAINING UNIT, WHICH INCLUDE: CITY ADMINISTRATOR, FINANCE DIRECTOR, POLICE CHIEF, GOLF COURSE SUPERINTENDENT, AND THE MEMBERS OF THE FIRE DEPARTMENT.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
John Graf	Yes
Greg Husmann	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.13 – 2015 LICENSE RENEWALS

Council reviewed a liquor license renewal for 2015 for La Crescent Wine & Spirits for off sale. The license appears to be in order and it is recommended the City Council approve the license as presented and authorize that it be forwarded to the State of Minnesota. Following discussion, Member Krenz made a motion, seconded by Member Husmann, as follows:

MOTION TO APPROVE OFF SALE LIQUOR LICENSE RENEWAL FOR 2015 FOR LA CRESCENT WINE & SPIRITS AND AUTHORIZE THAT IT BE FORWARDED TO THE STATE OF MINNESOTA.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.14 – ANNEXATION UPDATE

City Attorney Wieser gave an overview to City Council regarding the December 2, 2014 Annexation Hearing that was held before Judge LaFave and also reviewed the 2010 Annexation Agreement that the City and Township had entered into. No action taken.

ITEM 3.15 – EAB GRANT REQUIREMENTS

City Administrator Waller reviewed with City Council the background on EAB in the City and reviewed tree removal that took place in 2014. The City is in the process of closing out the grant agreement for tree removal and replanting for diversity with the Minnesota Department of Natural Resources. The grant is for \$75,000, and was used to mitigate the spread of Emerald Ash Borer. In addition to the grant, there was a local match of approximately \$9,100 for the project. In order for the City to close out the grant, and receive the grant funds, it was recommended to Council to adopt the following items: EAB Community Preparedness and Response Plan; Maintenance Plan for City Trees; and a Shade Tree Pest Control Ordinance. It was recommended a separate motion for each of the items, as the adoption of the Ordinance will require a second motion regarding publication requirements. Following discussion, the following Motions were made:

Member Buehler made a motion, seconded by Member Krenz, as follows:

MOTION TO ADOPT THE CITY OF LA CRESCENT EMERALD ASH BORER COMMUNITY PREPAREDNESS AND RESPONSE PLAN AS PRESENTED.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

Member Williams made a motion, seconded by Member Buehler, as follows:

MOTION TO ADOPT THE CITY OF LA CRESCENT EMERALD ASH BORER MAINTENANCE PLAN FOR CITY TREES AS PRESENTED.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

Following further discussion, Member Husmann introduced the following Ordinance, and moved its passage and adoption:

ORDINANCE NO. 490

AN ORDINANCE OF THE CITY OF LA CRESCENT REGARDING ESTABLISHMENT OF A SHADE TREE PEST CONTROL ORDINANCE

AN ORDINANCE providing for the prevention, control and abatement of shade tree pest, and for the protection, preservation and conservation of public and private lands, and to protect and promote the general welfare of the public and the City of La Crescent. The City Council of La Crescent ordains as follows:

SECTION 1: SHADE TREE PEST CONTROL.

Subd. 1. Declaration of policy. The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with Minn. Stat. §§ 89.001, 89.01, and 89.51-. 64, the provisions of this section are adopted as an effort to control and prevent the spread of these shade tree pests.

Subd. 2. Jurisdiction. The city shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs, and other plantings.

Subd. 3. Declaration of a shade tree pest. The Council may by ordinance declare any vertebrate or invertebrate animal, plant pathogen, or plant in the community threatening to cause significant damage to a shade tree or community forest, as defined by Minn. Stat. § 89.001, to be a shade tree pest and prescribe control measures to effectively eradicate, control, or manage the shade tree pest, including necessary timelines for action.

Subd. 4. Public nuisances defined. A shade tree pest, as defined by Appendix A, occurring within a defined control zone is a public nuisance.

Subd. 5. Shade tree pest nuisances are unlawful. It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

Subd. 6. Tree inspector. The Council may appoint a tree inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The tree inspector will recommend to the Council the details of any program for the declaration, control, and prevention of shade tree pests. The tree inspector is authorized to enforce or cause to be enforced the tasks incident to such a program adopted by the Council. The term "tree inspector" includes any person designated by Council or the tree inspector to carry out activities authorized in this section.

Subd. 7. Abatement of shade tree pest nuisances.

(A) In abating a nuisance, defined by ordinance under Section 1, subdivision 4, the organism, condition, plant, tree, wood, or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed Appendix A.

(B) In addition, if the appropriate abatement procedure is removal, and the tree(s) and/or hedge(s) are within the limits of a highway in a rural area within the city's jurisdiction, Minn. Stat. § 160.22 shall be complied with as necessary.

Subd. 8. Reporting discovery of shade tree pest. Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a public nuisance caused by a shade tree pest as defined under subdivision 4 shall report the same to the city.

Subd. 9. Registration of tree care firms.

(A) Any person, firm or corporation that provides tree care, tree trimming, or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the Minnesota Commissioner of Agriculture under Minn. Stat. § 18G.07.

Subd. 10. Inspection and application of control measures.

(A) The tree inspector is authorized to inspect premises and places within the city to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The tree inspector is authorized to take all reasonable measures to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms; by tests as may be recommended by the commissioner of the Minnesota Department of Agriculture or the commissioner of the Minnesota Department of Natural Resources; or other reliable means.

(B) Except in situations of imminent danger to human life and safety, the tree inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident, or other person in control of the property, unless the tree inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(C) No person, firm, or corporation shall interfere with the tree inspector or with anyone acting under the tree inspector's authority while engaged in activities authorized by this section.

Subd. 11. Abatement Procedures

(A) **Standard abatement procedure.** Except as provided in subdivisions 11(B) and 13, whenever a tree inspector determines with reasonable certainty that a public nuisance, as described by this ordinance, is being maintained or exists on premises in the city, the tree inspector is authorized to abate a public nuisance according to the procedures in this subdivision.

1. The tree inspector will notify in writing the owner of record or occupant of the premises that a public nuisance exists and order that the nuisance be terminated or abated. The notice may be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the city clerk.

2. The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the city clerk within seven (7) days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

3. If no timely appeal is submitted, and the control measures prescribed in the notice of abatement are not complied with within the time provided by the notice or any additional time granted, the tree inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property, and carry out abatement in accordance with the notice of abatement.

(B) High-cost abatement. If the tree inspector determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the written notice referred to in subdivision 11 must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

Subd. 12. Appeal procedure. If the City Administrator or the City Clerk receive a written request for a hearing on the question of whether a public nuisance exists, the City Council shall hold a hearing within seven (7) calendar days following receipt by the clerk of the written request. At least three (3) days' notice of the hearing shall be given to the individual who made the written request for the hearing. The Council may modify the abatement notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant, and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

Subd. 13. Abatement procedure in event of imminent danger.

(A) If the tree inspector determines that the danger of infestation to other shade trees is imminent, and delay in control measures may put public health, safety, or welfare in immediate danger, the tree inspector may provide for abatement without following subdivision 11(A) and 11(B). The tree inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(B) Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 14. Recovery of cost of abatement; liability and assessment.

(A) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

(B) After notice and hearing, as provided in Minn. Stat. § 429.061 (which may be amended from time to time), the city clerk shall, on or before Sept. 1 next following abatement of the nuisance, list the total unpaid charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The city council may then certify the charges against the property to the county auditor for collection along with current taxes the following year or in annual installments as the city council may determine in each case.

Subd. 15. Penalty.

(A) Any person, firm, or corporation that violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty, which may be imposed for any crime that is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days, or a fine of not more than \$1,000, or both.

(B) Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(C) The failure of any officer or employee of the city to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.

(D) In addition to any penalties provided for in this section, if any person, firm, or corporation fails to comply with any provision of this section, the City Council or any official designated by it may institute appropriate proceedings at law or at equity to restrain, correct, or abate the violation.

Subd. 16. Severability. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

Subd. 17. Effective Date. This Ordinance shall become effective upon passage and adoption and publication.

Passed by the City Council of La Crescent on the 8th day of December, 2014.

Approved:

Mayor

Attested:

City Clerk

The foregoing motion was duly seconded by Member Williams and upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The ordinance was declared duly passed and adopted.

City Attorney Wieser then reviewed with Council the Summary Ordinance for publication. The Council made the following findings of facts: that publication of the summary informs the public of the intent and effect of the Ordinance.

Member Buehler then made a motion, seconded by Member Williams as follows:

MOTION THAT A PRÉCIS FORMAT OF SAID ORDINANCE 490 BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF THE CITY AND WITH “OFFICIAL COPY” SO MARKED BE KEPT ON FILE IN THE OFFICE OF THE CITY ADMINISTRATOR

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 3.16 – SPECIAL CITY COUNCIL MEETING – DECEMBER 15

City Attorney Wieser reviewed with City Council that a Special City Council meeting had been called for December 15, 2014 for the purpose of holding a Public Hearing on the proposed vacation of a portion of Twilite Street. Due to notice requirements, it will be necessary for the City Council to cancel the meeting on December 15. It was recommended to Council to add this Public Hearing to the City Council agenda for February 23, 2015. Following discussion, Member Buehler made a motion, seconded by Member Williams, as follows:

MOTION TO CANCEL THE SPECIAL CITY COUNCIL MEETING AT 5:30 P.M. ON MONDAY, DECEMBER 15, 2014, FOR PURPOSES OF HOLDING A PUBLIC HEARING ON THE PROPOSED STREET VACATION FOR A PORTION OF TWILITE STREET IN THE CITY OF LA CRESCENT AND TO CALL FOR A PUBLIC HEARING AT THE REGULAR CITY COUNCIL MEETING ON FEBRUARY 23, 2015 FOR THIS STREET VACATION.

Upon a roll call vote taken and tallied by the City Administrator, all Members present voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried.

ITEM 6.1 – STAFF CORRESPONDENCES/COMMITTEE UPDATES – ECONOMIC DEVELOPMENT COMMISSION MINUTES – NOVEMBER 2014

Council reviewed the Minutes from the November 12, 2014 La Crescent Economic Development Commission meeting. No action taken.

ITEM 8 – CHAMBER OF COMMERCE

Eileen Krenz of the La Crescent Chamber of Commerce gave an update on the following Chamber events: the Rotary Holiday Train, which had the highest turnout ever; the Chamber Mixer to be held at Merchants Bank on December 11; the Holiday Parade on December 12; Santa visits; and the cookie walk.

There being no further business to come before the Council at this time, Member Buehler made a motion, seconded by Member Williams, to adjourn the meeting. Upon a roll call vote taken and tallied by the City Administrator, all Members voted in favor thereof, viz;

Bernie Buehler	Yes
Greg Husmann	Yes
Brian Krenz	Yes
Dale Williams	Yes
Mike Poellinger	Yes

and none voted against the same. The motion was declared duly carried and the meeting duly adjourned at 6:51 PM.

APPROVAL DATE: _____

SIGNED:

Mayor

ATTEST:

City Administrator