

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBER
MAY 5, 2008
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of May 5, 2008 to order at 6:00 p.m., and asked Councilmembers, staff and the audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members Present: Mayor Jon Nowaczek, Councilmembers Connie Carlson, Dan Johnson, Torry Kraftson and Sharon Ridgway

Members Absent: None

Others Present: Administrator Mike McGuire, Police Chief Laura Eastman, Public Works Supervisor Mel Horak, Engineer Barry Peters, Attorney Jennifer Nodes, and Assistant Administrator/Planner Sara Taylor

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. The recycling award for April went to Louis Kemm.
2. The city will host a Public Open House to celebrate the completion of the bathhouse remodel at Lakeside Park on Tuesday, May 20, 2008, 4:00-6:00 p.m.
3. Residents were encouraged to attend the Bayport American Legion Memorial Day Parade on Monday, May 26th. The parade starts at 8:30 a.m. and concludes with a memorial ceremony at Hazelwood Cemetery.

OPEN FORUM

1. Jim Selmecki, 317 Lake Street South, inquired as to the use of funds in the city's tax stabilization fund. Mayor Nowaczek indicated the City Council would be discussing this issue further and welcomed citizen input. Administrator McGuire clarified there are no new funds coming into the tax stabilization fund. Councilmember Ridgway added the money in the fund was not generated through taxes; rather it was given to the city by Andersen Corporation to offset any hardship due to their revised tax structure.
2. Consider a request for placement of a McKenzie Boy Scout statue in a city park: Joe Reding, 162 5th Avenue North, representing Troop 113, reviewed the troops' request to place a replica of the statue, "The Boy Scout," at the Village Green or Perro Park, as part of the Boy Scouts of America 100th anniversary celebration. Discussion followed on placement of the statue, with Councilmember Kraftson recommending considering Lakeside Park. He reminded councilmembers of an earlier resident request for some type of veteran's memorial in a city park.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to support the efforts of the City of Bayport to acquire one of the six available Boy Scout statues. Motion carried.

3. Consider authorization for a scout to complete an Eagle Scout Leadership Service Project at Village Green Park with funding provided by the city: Lance Meister, Troop 113, described his proposed service project that would provide enhanced landscaping and benches around the time capsule memorial in the Village Green Park. He is requesting the city provide financial support in the amount of \$1,300.00, not \$1,200.00 as noted in his written request. If approved, he plans construction for the end of August.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to support Lance Meister's Eagle Scout project and permit him to alter the landscaping at the Village Green Park and approve city financial support in the amount of \$1,300.00. Motion carried.

CONSENT AGENDA

Mayor Nowaczek read items 1-10 on the consent agenda.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 08-06

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING CONSENT AGENDA ITEMS 1-10 FROM THE MAY 5, 2008 CITY COUNCIL AGENDA

1. April 7, 2008 City Council regular meeting minutes
2. April payables and receipts
3. April building, plumbing and mechanical permits
4. Fund transfers – budgeted and unbudgeted
5. Donation request for Memorial Day parade
6. Special event application for Memorial Day parade activities
7. Special event application for Andersen Corporation Quarter Century picnic
8. Temporary on-sale liquor license for Bayport Marina
9. Award of quote and funding for painting of snow plow truck
10. Special event application for A Night at Dane's Place

Administrator McGuire clarified that item #8 was separate from the new business agenda item (#3).

The motion for adoption of the foregoing resolution was duly seconded by Councilmember Ridgway and upon roll call being taken thereon, the following vote via voice:

Jon Nowaczek – aye	Torry Kraftson – aye
Connie Carlson – aye	Sharon Ridgway – aye
Dan Johnson – aye	

PUBLIC HEARINGS – None

COUNCIL LIAISON REPORTS

Councilmember Ridgway reported on the April 16th Cable Commission meeting. Comcast is providing a new high speed service for residential and business customers. Cable customers will not need a converter box for their televisions when the FCC mandated digital broadcast service goes into effect in February 2009. Grant scholarships were awarded to four applicants. The next meeting is scheduled for June 18, 2008, 7:00 p.m., at the cable studio located in the Valley Ridge Mall in Stillwater.

Councilmember Kraftson reported on the April 10th meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). Amy Corcoran has been named the new administrator of the MSCWMO. He reported multiple agencies are researching long and short term solutions for protecting and cleaning up the St. Croix River. Monitoring done by the Washington Conservation District (WCD) has revealed high levels of E. coli present in Perro Creek. The WCD has efforts underway to determine the source of the contamination and is looking into methods to mitigate bank erosion and general sedimentation of the creek. Councilmember Kraftson believes the city should also look into ways to prevent sediment from getting into the creek. He directed residents to the article on rain gardens in the city's recent newsletter and encouraged people to incorporate them into their landscaping. MSCWMO efforts regarding the Perro Creek flood mitigation project will be discussed under new business item #4. The next meeting of the MSCWMO is scheduled for May 8, 2008, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported on the April 24th library board meeting. New carpeting will be installed throughout the majority of the library and energy efficient lighting is being installed, with a projected \$3,500.00 savings per year in utility bills. New computer equipment is being ordered and the library's website will be updated. Residents are encouraged to check out the used book sale on Friday, June 6th from 8:00 a.m.-5:00 p.m. and Saturday, June 7th from 8:00 a.m.-1:00 p.m., at the Village Green. Book donations for the sale are being accepted; contact the library for more information. The library will also be open on June 7th, deviating from the regular summer schedule. The next meeting is scheduled for May 22, 2008, 6:00 p.m., at the library.

Councilmember Carlson reported the Lower St. Croix Partnership did not meet in April and that the next meeting is scheduled for May 21, 2008, 7:00 p.m., at the St. Croix County Government Center.

UNFINISHED BUSINESS

Consider accepting the feasibility study for water extension to Pete Miller's property located in Baytown Township and an addendum to the Joint Powers Agreement for the water extension: Applicant Pete Miller has requested that this item be continued to a future meeting in order to give him more time to review the estimated project costs.

It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to continue this item to the next meeting. Motion carried.

Consider establishing fees and policies associated with the designated cremains area in Hazelwood Cemetery: Public Works Supervisor Horak provided a status update on the cremains-only area being established in Hazelwood Cemetery. The area in the northwest corner of the cemetery has been replatted into 896 gravesites. He reviewed the proposed rules, regulations and pricing and noted a memorial flower garden has been suggested, as no upright or aboveground protrusions would be allowed in the cremains area. The residents who served on the cemetery advisory group were thanked for their input. Additional input/assistance with the flower garden is welcomed.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to accept the proposed rules for the Hazelwood Cemetery cremains area as presented. Motion carried.

Consider gas and electric franchise agreements with Xcel Energy: Administrator McGuire reviewed draft franchise agreements with Northern States Power Company, d/b/a Xcel Energy that would allow Xcel Energy the right to provide gas and electric service to the city for a 20-year period. The ordinances provide the city with the right to impose a franchise fee in the future, up to five percent of Xcel Energy's total gross revenues. This fee is not being implemented at this time. It was noted the revenue generated by this type of fee does not have to be dedicated to a specific utilities fund. Discussion followed on the benefits of having a franchise agreement with Xcel Energy.

Councilmember Johnson introduced the following ordinance and moved its adoption:

Ordinance #798

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A/ XCEL ENERGY, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSES OF CONSTRUCTING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF BAYPORT, MINNESOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO THE CITY AND ITS INHABITANTS AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH THE

CITY, AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

The motion for adoption of the foregoing ordinance was duly seconded by Councilmember Carlson and upon roll call being taken thereon, the following vote via voice:

Jon Nowaczek – aye	Torry Kraftson – aye
Connie Carlson – aye	Sharon Ridgway – aye
Dan Johnson – aye	

Councilmember Johnson introduced the following ordinance and moved its adoption:

Ordinance #799

AN ORDINANCE GRANTING TO NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION, D/B/A XCEL ENERGY ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF BAYPORT, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSES.

The motion for adoption of the foregoing ordinance was duly seconded by Councilmember Carlson and upon roll call being taken thereon, the following vote via voice:

Jon Nowaczek – aye	Torry Kraftson – aye
Connie Carlson – aye	Sharon Ridgway – aye
Dan Johnson – aye	

NEW BUSINESS

Consider award of 2008 Recycling and Solid Waste Scholarship: Assistant Administrator Taylor reported the city received two impressive qualifying applications as noted in the City Council materials, as well as a third one from Heidi Peterson by the application due date. Ms. Peterson received the scholarship award last year, and staff is recommending that two \$500.00 scholarships be awarded to James Robinson and Sarah Nelson. Surplus scholarship funds, previously designated for purchasing recycling receptacles, would be used to fund two scholarships this year. Discussion followed on using the Allied Waste money for its intended purpose and the caliber of the applications received this year.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to award the 2008 Recycling and Solid Waste Scholarships to Sarah Nelson and James Robinson, in the amount of \$500.00 each. Motion carried.

Presentation of 2007 Audit: Andy Berg, auditor with Abdo, Eick & Meyers, reported the 2007 annual audit received an unqualified (clean) opinion, with no disagreements and no significant difficulties in performing the audit. The significant audit findings and recommendations were reviewed, followed by the key financial information. The general fund, special revenue funds, debt service funds, capital projects funds, and enterprise funds were reviewed in detail. Of significance, the water utility fund has shown a loss from operations in 2006 and 2007, and it was recommended that water and sewer rates be reviewed annually to ensure rates cover operating expenses.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to accept the 2007 annual audit as prepared by Abdo, Eick & Meyers, LLP. Motion carried.

Consider approval of liquor licenses for the establishment “Refuge on the River” located at 101 5th Avenue South: Administrator McGuire reviewed the background of a request to consider approval of liquor licenses for a new restaurant, Refuge on the River. Applicant Mike Scanlon will be leasing the restaurant, formerly known as Clyde’s, which is adjacent to the Bayport Marina. Additionally, the conditional use permit (CUP) which allows the property to operate as a restaurant has expired and a public hearing on the CUP is scheduled for the May 19th Planning Commission meeting. Due to the time involved with the conditional use permitting process, staff feels it may be appropriate to allow the restaurant to open when all other outstanding issues are complete. In addition to the outstanding issues listed in the City Council materials, grease traps must be installed, per city code. Discussion followed on whether a liquor license could be authorized without a valid CUP in place and the number of outstanding issues, especially the Metropolitan Council Service Availability Charges (SAC) that must be paid. Administrator McGuire noted that the original CUP was issued as one for the three entities involved, i.e., the Bayport Marina, Waterford on the St. Croix Condominium Association and the restaurant, as they originally had the same owner.

Applicant Mike Scanlon provided an overview of his proposed restaurant business Refuge on the River. Mr. Scanlon stated all of the issues identified in the staff report would be completed prior to opening, which he hopes could be as early as May 14th in preparation for anticipated substantial business over the Memorial Day weekend. He has met with representatives from the marina and condominium association in an effort to be a good business neighbor. Mr. Scanlon answered questions regarding completion of the outstanding building issues, and Administrator McGuire explained why the Metropolitan Council was reviewing the SAC charges for the building at this time. Councilmembers voiced their support of Mr. Scanlon’s business plans but believed the city needs to follow the proper procedures to make sure all concerns are addressed. They recommended that the CUP application be addressed at the May 19th Planning Commission, after which a decision would be made on the liquor licenses. Mr. Scanlon requested approval of the liquor licenses prior to the Planning Commission meeting in order to get the process moving along with the State of Minnesota. Councilmembers reiterated their desire to follow protocol and address the liquor license and CUP applications at the same time. Written concerns received from the Bayport Marina Association and Waterford on the St. Croix Condominium Association were noted.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to continue this matter to the next meeting, to allow time for a public hearing on the CUP and Planning Commission input. Motion carried.

Discussion followed on scheduling a special City Council meeting prior to the regularly scheduled June meeting in order to provide a more timely response to Mr. Scanlon’s applications. Mr. Scanlon indicated he has a substantial investment in the proposed business, and if he had known the CUP process would prohibit opening by Memorial Day weekend, he would have sought legal recourse or walked away from the project.

It was moved by Councilmember Ridgway and seconded by Councilmember Johnson to set a special meeting for Monday, May 19, 2008, immediately following the Planning Commission meeting, to consider Mr. Scanlon’s applications. Motion carried.

Consider a \$50,000 loan request from the MSCWMO to design and bid the Bayport storm sewer project: Administrator McGuire reviewed a request from the Middle St. Croix Water management Organization (MSCWMO) for the Cities of Bayport and Oak Park Heights to each loan the MSCWMO \$50,000.00 to design and bid the final phase of the Bayport storm sewer project, prior to the state releasing \$1.77 million in allocated funds for the project. The City of Oak Park Heights has approved a loan of the

requested funds, interest-free. Staff recommended that the city approve the \$50,000.00 loan request, charging 3% interest on the loan.

MSCWMO Chairperson Dave Beaudet reported he anticipates the loan would be paid back by February/March of 2009. He noted that Bayport receives a 5% administrative fee for serving as the fiscal agent for the project funds and questions whether the state would reimburse interest on the loan. He indicated the MSCWMO would pay for the loan documents to be drafted. Councilmember Kraftson and Mr. Beaudet reviewed the history of the project to alleviate flooding from Perro Creek in Bayport. Councilmembers indicated they were in favor of an interest-free loan.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to authorize up to \$50,000.00 for design and bidding fees for the remainder of the Bayport storm sewer flood control project, in partnership with the City of Oak Park Heights. Motion carried.

COUNCIL ITEMS/ANNOUNCEMENTS

1. Councilmember Carlson reported on upcoming events at the Bayport Senior Center:
 - They will be sponsoring six women veterans in the Memorial Day parade on May 26th and are in need of additional convertible or Jeep vehicles for the veterans to ride in.
 - Police Chief Laura Eastman will be having a question and answer breakfast session with the seniors on May 28th.
 - They are hosting a square dance on May 29th at 6:00 p.m. Everyone is welcome.
 - Seniors are working with the 4th graders from Andersen Elementary to put on a play, and an actor is needed to play Abraham Lincoln.Please contact Sue Schultz at the Senior Center, 651-275-8907, if you can help or have questions regarding the above events.
2. Councilmember Kraftson proposed that a feasibility study be considered to add one-way angled parking on the east side of 4th Street North, to provide more parking for the businesses along 5th Avenue North, as well as the library. This item will be discussed at a future meeting.

ADMINISTRATOR/STAFF ITEMS AND ANNOUNCEMENTS

Set workshop date for quarterly department review of Public Works department and BCAL donation: Discussion on this was tabled to the June 2, 2008 City Council meeting.

Schedule special meeting to consider bids for Lakeside Park and update on Barker's Alps: Bids to complete the sand blanket project at Lakeside Park are due at City Hall by May 9th, and a special meeting to award the bid is needed for the timely completion of the project. It was decided to schedule the meeting for Monday, May 19, 2008, at 5:00 p.m.

Quarterly Meeting with Croixdale Residents: Chief Eastman reported that Croixdale is inviting Bayport residents to attend their quarterly meeting with the Police Department on Wednesday, May 14, 2008, 6:00 p.m.-7:00 p.m. Chief Eastman will update residents on concerns identified during the last 3 months and representatives from the Department of Corrections will address minimum security screening processes. The meeting will be televised on the local cable channel. Councilmember Carlson recognized Chief Eastman's efforts to interact with Bayport residents and businesses.

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn the meeting at 8:45 p.m. Motion carried.