

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
FEBRUARY 12, 2007
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of February 12, 2007 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 John Gannaway, Public Works Supervisor Horak, Library Director Kathy MacDonald, Engineer Barry Peters, Assistant City Administrator Sara Taylor, and Attorney Nick Vivian

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. Mayor Nowaczek reported that recycling awards for February were given to Barb Schifsky, Scott McGee, Jerome Foss and Dana Knutson.

OPEN FORUM

CONSENT AGENDA

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

Councilmember Johnson introduced the following resolution and moved its adoption:

Resolution 07-08

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING
CONSENT AGENDA ITEMS 1-10 FROM THE FEBRUARY 12, 2007 CITY COUNCIL
AGENDA**

1. January 8, 2007 City Council regular meeting minutes
2. January payables and receipts
3. January building, plumbing and mechanical permits
4. Revised liquor and tobacco license for Captains Corner
5. Washington County sewage treatment inspection agreement
6. Lawful gambling application for Whitetails Unlimited at the American Legion Post 491, 263 North 3rd Street, Bayport, MN 55003
7. Close city investment account with AIM Investments
8. Consider contract award for well pump #2 inspection and routine maintenance
9. Approve Insurance Carrier and Authorize Coverage
10. Waiver for city liability coverage

The motion for adopting the foregoing resolution was duly seconded by Councilmember Carlson and upon roll call being taken, the following voted via voice:

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

PRESENTATION OF LANDSCAPE PLAN FOR BAYPORT PUBLIC LIBRARY: Library Director Kathy MacDonald stated that City Council approval was being requested for a landscaping plan developed by the Bayport Public Library Board and the Master Gardeners of Washington County. Funding would come from the library fund balance, with Master Gardeners volunteering their time and talent. Lynn Vernon, representing the Master Gardeners, reviewed the landscaping plan in detail. There will be an opportunity for Bayport residents to assist with the planting/maintenance and learn about the plants being incorporated into the plan. Councilmember Kraftson expressed concern with the potential for plantings encroaching onto the sidewalk area.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to approve the Bayport Public Library landscape plan and funding as presented. Motion carried.

PUBLIC HEARINGS

Consider vacating the northerly and southerly 10 feet of First Avenue South, between Third Street South and Second Street South: Engineer Peters reviewed the street vacation application received from applicant Charles Lutz to vacate the northerly and southerly 10 feet of 1st Avenue South, between 3rd Street South and 2nd Street South. The applicant has obtained the approval of the four property owners affected by the request. The requested vacation area is a one block gravel street with a platted 80 foot right-of-way. The street vacation would result in a 60 foot right-of-way, which is a standard right-of-way width. There are no city utilities within the proposed 10 foot street vacation; however, there is an Xcel Energy gas main on the north side of the street that would be affected. The City of Bayport cannot vacate the right-of-way without providing a means of access to the gas main. Engineer Peters reviewed three options for City Council action, stating he recommended vacating only the southerly 10 feet of 1st Avenue South at this time. It was noted that a separate street vacation request would be required for the north side of the street, if an easement agreement could be executed between Xcel Energy and the property owners.

Applicant Charles Lutz, 207 3rd Street South, stated he requested the street vacation in order to put an addition onto the north side of his home, which currently has a 15 foot setback from the property line. A 20-foot setback would be required to meet zoning requirements. Planner Taylor noted that a variance request would be another option, but Mr. Lutz chose to pursue the street vacation first. Mr. Lutz stated he believes this would be a “win-win” situation for the city and the land owners.

Ralph Rothe, 191 3rd Street South, stated he lives on the north side of the street and is in favor of the request. The gas line in question serves his property.

Discussion followed on the options for responding to the application. Attorney Vivian stated the City Council could approve the vacation request for the south side of 1st Avenue South and continue the public hearing for the north side, in order to provide time for the easement issues to be resolved with Xcel Energy.

It was moved by Councilmember Carlson and seconded by Councilmember Ridgway to close the public hearing. Motion carried.

Discussion ensued on vacating public land. Councilmember Ridgway stated she is not in favor of the street vacation. Councilmember Johnson spoke to the uniformity of approving street vacations on a block level minimally. He is in favor of the street vacation request and believes it would encourage the property owners to improve the landscaping up to the right-of-way. He recommended continuing the entire application until the easement issue is resolved. Staff will determine whether a 60-day extension is required for responding to the application. Councilmember Carlson is in favor of the request and

would also like to have it acted on as a whole. Councilmember Kraftson echoed Councilmember Ridgway's caution regarding vacating public property, noting possible future need for the land. In this case, however, he believes it is a viable request. He would like the city to explore whether the city should be maintaining utility and/or drainage easements on vacated land.

Attorney Vivian recommended continuing the matter for a month to determine what type of progress can be made with Xcel Energy regarding the easement issue, and that the City of Bayport should have a firm commitment from Xcel Energy regarding issuance of the easements prior to action on the street vacation request for the north side of 1st Avenue South. Councilmember Johnson spoke to the subject of 1st Avenue South being a platted street. Mayor Nowaczek stated he would like the Xcel Energy easement issue resolved before taking action on the vacation request.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to continue this matter to the next meeting, to provide time for an easement agreement to be resolved. Motion carried.

COUNCIL LIAISON REPORTS

Councilmember Ridgway reported the Christmas party at the Cable Commission studio went well, and that the commission has renewed its membership with MACTA (Minnesota Association of Community Telecommunications Administrators) to keep abreast of legislative issues regarding cable franchising. The annual meeting will be held February 21, 2007, 7:00 p.m., at the Valley Ridge Mall, followed immediately by the next regularly scheduled meeting.

Councilmember Kraftson reported the Middle St. Croix Watershed Management Organization (MSCWMO) met on February 8, 2007. The next meeting is scheduled for March 8, 2007.

Councilmember Johnson reported that the January 25, 2007 meeting of the Bayport Public Library Board focused primarily on the landscaping plan developed by the Master Gardeners. Library Director MacDonald stated that the results of the recent library survey to assist with long-range strategic planning were very positive, and next steps are being evaluated. The next meeting of the library board is set for February 22, 2007, 6:30 p.m., at the library.

Councilmember Carlson had no report on the Lower St. Croix Partnership group.

UNFINISHED BUSINESS

Review and prioritize Phase 1 improvements for Lakeside Park: Administrator McGuire reported that staff has met with the DNR, Army Corps of Engineers, and the Washington Conservation District since the last meeting and the city's proposed plans for Lakeside Park were received favorably. Since Phase 1 improvements are projected to cost significantly more than monies available in the park dedication fund, staff broke down the improvements into two categories. He reviewed Phase 1A improvements, which staff recommended be completed in 2007. The cost estimates for Phase 1A improvements are approximately \$131,000.00 more than projected park dedication funds, and staff recommended that the money be borrowed from the city's tax stabilization fund, which has a current balance of approximately \$1,355,000.00. The money would be paid back as park dedication fees are received.

Discussion followed on the availability of the park this year, including the annual Derby Days event in September. The park will be available during the construction period. Architect Lenz estimated it would take six weeks to prepare construction documents, and another four weeks for bid completion, once authorization to proceed is given. Councilmember Ridgway requested that the electrical components in the shelters be reviewed in the next phase. Councilmember Kraftson expressed concern over the cost estimates being so high for the bathhouse improvements. Architect Lenz explained the

estimates are based on the design and more detail would be forthcoming as the planning goes forward. He also noted that bids will be taken on this project and the actual cost is determined by the lowest responsible bidder. All playground equipment will eventually be replaced because of ADA rules, but only the 2-5 year old equipment is scheduled for replacement this year. Councilmember Kraftson questioned whether beach improvements should be included in Phase 1A and discussion followed on prioritization of the improvements. Mayor Nowaczek commented on borrowing approximately 10% of the tax stabilization fund, noting the need for continued caution in depleting this fund.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to authorize staff to proceed with Phase 1A improvements to Lakeside Park, authorizing Sanders, Wacker, Bergly, Inc., in association with Mark Lenz Architects to prepare construction documents, assistance during bidding, and construction observation for Phase 1A improvements, and borrowing funds from the tax stabilization fund to supplement the park dedication fund, in order to complete Phase 1A improvements this year. Motion carried.

NEW BUSINESS

Consider appointment to the Planning Commission: Lois Bjorlie decided not to seek reappointment to the Planning Commission, and staff recommended appointing Ray Valley, 151 State Street South, to fill the vacancy.

It was moved by Councilmember Carlson and seconded by Councilmember Ridgway to appoint Ray Valley to fill the vacant seat on the Planning Commission for a term to expire on December 31, 2009. Motion carried.

Discuss permitting an exception to the liquor policy for the Bayport Public Library meeting rooms: Attorney Vivian reviewed his memorandum on the pros and cons of allowing liquor to be served on city property, specifically liability issues. The Bayport Library Foundation Board has requested an exception to the city's liquor policy so wine may be served at the annual Author Luncheon on April 14, 2007, at the library. The luncheon location had to be moved from Clyde's because the local restaurant is currently closed for business. Attorney Vivian stated he does not foresee significant liability exposure to the city with the event.

Library Board members Sara Wagner and Amy Zimmer asked for clarification on serving the donated wine and explained the fundraising event. They answered questions regarding monitoring the amount of alcohol served individually, as well as safeguards to prevent underage consumption. Administrator McGuire noted that the city's liability exposure is minimal if the alcohol is served by a licensed caterer and recommended pursuing this avenue. Mayor Nowaczek indicated that the library has received numerous inquiries on serving alcohol in its meeting rooms and questioned whether the City Council should consider changing the city's alcohol policy at this time. Discussion followed on focusing tonight's action on the one-time Author Luncheon request and consider requests of this nature on an event-by-event basis. Councilmember Kraftson stated he would like to see the city's current liquor policy adhered to and believes it promotes Bayport as a "family friendly city."

It was moved by Councilmember Johnson and seconded by Councilmember Ridgway to authorize the Bayport Library Foundation to serve wine at their Author Luncheon on April 14, 2007 at the Bayport Public Library, with the library board to determine the level of supervision necessary to ensure proper safeguards are in place. Motion carried 4-1, with Councilmember Kraftson voting nay.

Consider amending the city's utility billing ordinance regarding unpaid bills: Administrator McGuire explained that the current practice of certifying unpaid city water and sewer bills to the county has not been delineated in city code. He indicated the proposed ordinance amends the code to reflect this practice and recommended approval.

Councilmember Ridgway introduced the following ordinance and moved its adoption:

Ordinance #785

**ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA
AMENDING CHAPTER 58 - UTILITIES OF THE CITY CODE REGARDING
CERTIFICATION OF UNPAID UTILITY BILLS TO WASHINGTON COUNTY**

The motion for adopting the foregoing ordinance was duly seconded by Councilmember Carlson and upon roll call being taken, the following voted via voice:

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

Consider amending the city's general cemetery regulations ordinance: Public Works Supervisor Horak and Councilmember Johnson reviewed the recommendations of the Hazelwood Cemetery Advisory Commission. The group is recommending allowing upright headstones on two adjoining side-by-side gravesites, and all gravesites must have a headstone. Gravesite memorabilia will be monitored closely to comply with the proposed revisions. Supervisor Horak addressed the city's position regarding installation of a columbarium and the potential risk exposure due to vandalism. Discussion followed on creating a cremains burial area that would provide for a less expensive burial option. Supervisor Horak recommended paving the cemetery road in conjunction with a future street paving project, as well as replacing the failing cemetery fence. The members of the advisory group were recognized and thanked for their efforts.

It was moved by Councilmember Johnson and seconded by Councilmember Ridgway to receive the report of the Hazelwood Cemetery Advisory Commission. Motion carried.

Councilmember Johnson introduced the following ordinance and moved its adoption:

Ordinance #786

**ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA
AMENDING CHAPTER 24, SECTION 24-1, 24-2, AND 24-6 OF THE BAYPORT CITY CODE
REGARDING CEMETERIES**

The motion for adopting the foregoing ordinance was duly seconded by Councilmember Carlson and upon roll call being taken, the following voted via voice:

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

Discussion followed on the other recommendations of the advisory commission, specifically the cremains area.

It was moved by Mayor Nowaczek and seconded by Councilmember Carlson to pursue the creation of a cremains burial area in Hazelwood Cemetery. Motion carried.

Consider the purchase of a used sewer cleaning truck: Public Works Supervisor Horak reviewed a request to replace the city's 22-year old sewer cleaning machine. The Public Works department had the opportunity to test the equipment and staff is recommending purchase of a 1993 Sreco truck-mounted sewer flushing machine from the Flexible Pipe Tool Company, St. Cloud, Minnesota. Funding for the purchase would come from the Public Works Replacement Fund.

It was moved by Councilmember Carlson and seconded by Councilmember Ridgway to authorize the Bayport Public Works department to purchase a 1993 Sreco sewer flushing machine, as quoted, for the trade-in price of \$44,268.80 from the Flexible Pipe Tool Company, St. Cloud, Minnesota. Motion carried.

COUNCIL ITEMS/ANNOUNCEMENTS

1. Councilmember Carlson informed residents that the Bayport American Legion would be holding a breakfast buffet on Sunday, February 25th from 8:00 a.m. to 12 noon.

ADMINISTRATOR/STAFF ITEMS AND ANNOUNCEMENTS

1. Water Update: Engineer Peters reported that the substantial completion date of March 1, 2007, is on schedule, at which time the air stripper water treatment system for well #2 will be operational.

ADJOURNMENT

It was moved by Councilmember Johnson and seconded by Councilmember Ridgway to adjourn the meeting at 8:17 p.m. Motion carried.