

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBER
APRIL 6, 2009
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of April 6, 2009 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, and Torry Kraftson, and Judy Seeberger

Members Absent: None

Others Present: Administrator Mike McGuire, Police Chief Laura Eastman, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, and Attorney Nick Vivian

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. The February 2009 recycling award went to Ashley Hamble.
2. Mayor Nowaczek thanked former Councilmember Sharon Ridgway for her service to the community as a member of the Bayport City Council and presented her with a plaque of appreciation.
3. Mayor Nowaczek noted that a retirement party for Bayort Police Officer Pat Logan is scheduled for Saturday, April 25, 2009, beginning at 7:00 p.m., at the Bayport American Legion.

OPEN FORUM - None

CONSENT AGENDA

Mayor Nowaczek read items 1-13 on the consent agenda.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 09-06

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING
CONSENT AGENDA ITEMS 1-13 FROM THE APRIL 6, 2009 CITY COUNCIL AGENDA**

1. March 2, 2009 City Council regular meeting minutes
2. March payables and receipts
3. March building, plumbing and mechanical permits
4. Canine Program Donations – 1st Quarter 2009 Summary
5. Special event application for Andersen Corporation at Lakeside Park
6. Special event application for Minnesota Correctional Facility at Lakeside Park
7. PERA declaration for part-time police officer Chad Johnson (*Resolution 09-06A*)
8. PERA declaration for part-time police officer Leanne Renteria (*Resolution 09-06B*)
9. Renewal of boat trailer parking agreement with Andersen Corporation
10. Annual step increase for Police Chief
11. Acceptance of Katherine B. Andersen Fund grant for fire department
12. Special event application, lawful gambling permit, and temporary on-sale liquor license application for the BCAL Dane's Place Pig Roast Fundraiser at Village Green Park
13. Assessment abatement resolutions for 986 Inspiration Pkwy. N. (*Resolution 09-06C*) and 713 5th Ave. N. (*Resolution 09-06D*)

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

Jon Nowaczek – aye
Connie Carlson – aye

Dan Johnson – aye
Torry Kraftson – aye

Judy Seeberger – aye

PUBLIC HEARINGS – None

COUNCIL LIAISON REPORTS

Councilmember Seeberger reported on the March 9, 2009 Planning Commission meeting. The Planning Commission recommended approval of a conditional use permit for outdoor parking for a proposed transmission/auto repair business at 120 3rd Street South.

Councilmember Kraftson reported on the March 12, 2009 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). He stated the organization continues discussions with the Minnesota Board of Water and Soil Resources to look at options for modifying the slopes rule. The next MSCWMO meeting is scheduled for Thursday, April 9, 2009, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported on the March 26, 2009 meeting of the Library Board, noting that a revised fines policy was adopted. He also stated that the April 4th luncheon fund raiser was well attended. The next meeting is scheduled for Thursday, April 23, 2009, 6:00 p.m., at the library.

Councilmember Johnson stated he attended the “Linking Land Use with Water Quality” seminar on March 31, 2009. There was considerable discussion on land use regulations and encouraging communities to enforce their runoff ordinances to prevent further runoff into Lake St. Croix. There will be another workshop on this topic at the University of Wisconsin-River Falls on April 16th.

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

UNFINISHED BUSINESS

Consider authorization to solicit competitive bids for Phase 1 improvements at Barker’s Alps Park and approval of feasibility report for funding a portion of the Phase 1 improvements through the 429 assessment process: Landscape Architect Larry Wacker reviewed an adjusted cost estimate for the Phase 1 improvements based on the inclusion of additional funds from the Inspiration developers, through the 429 assessment process. Additional and/or modified projects include \$37,000.00 for treatment of the rubble and debris area in the north area and additional funds for grading, paths, play area, gravel road and service drive construction, gravel parking lot and topsoil/seeding in the south area. The revised total cost estimate is \$631,675.00, which includes funding of \$106,625.00 from the 429 assessment process and \$54,000.00 for Inspiration’s share of water service extension reimbursement funds from St. Croix Preparatory School in Baytown Township. Engineer Peters reviewed the SEH feasibility report on the improvements as required as part of the 429 assessment process. He stated that the southerly improvements for Barker’s Alps Park are feasible and economical and are necessary to provide play areas for Bayport residents, stormwater control, and improved access to the city’s water system facilities. Administrator McGuire stated the city continues negotiations with the Inspiration developers regarding an agreement for the 429 assessment process. He recommended proceeding with the project as proposed, with the understanding that the scope of the project may need to be revised once bids are received, if the agreement has not been finalized. Discussion followed on bidding the additional improvements as an alternate item and adding a bituminous pathway for biking.

It was moved by Councilmember Kraftson and seconded by Councilmember Seeberger to approve the Southerly Barker’s Alps Park Improvement Feasibility Report and to authorize preparation of

construction drawings and specifications for the Phase 1 Barker's Alps Park improvements, with the \$106,625.00 portion of improvements to be funded through the 429 assessment process shown as an alternate in the bid package. Motion carried.

Consider location for placement of Boy Scout statue: Joseph Reding, representing Troop 113, reported that the Northern Star Council of the Boy Scouts of America has allocated one of six available "The Boy Scout" statues to Bayport. The troop is proposing placement of the statue on the Village Green, on the southeast side of the intersection of 4th Avenue North and Highway 95. The location meets city code requirements relative to intersection visibility. Costs for the statue, base and footings would be covered by the Boy Scouts; however city assistance in excavating the hole for the concrete footings was requested. If approved, placement would be requested for fall 2009.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to approve the placement of "The Boy Scout" statue on the Village Green, as presented, and that the Bayport Public Works department assist in providing a suitable foundation for the statue. Motion carried.

NEW BUSINESS

Consider a request to conduct a seasonal farmer's market at Perro Park: The city received a formal request from local residents to hold a farmer's market at Perro Park on Mondays from 3:00-7:00 p.m., with the Bayport Community Action League (BCAL) acting as the overseeing body for the project. Patti Alt and Dr. Scott Edlin reviewed plans to coordinate a farmer's market in Bayport utilizing products grown in the St. Croix Valley. They anticipate 15 different vendors participating, with a start date of late June/early July, depending on sweet corn availability. The local bakery is interested in participating, and there would be a free booth available to local organizations to promote their events. It was noted there may be a conflict with scheduled SCVAA ball games. Councilmember Johnson recommended that a non-profit entity, such as the BCAL, submit the request. Engineer Peters indicated there would be some road construction/parking restrictions this summer in the area as a result of the Perro Creek stormwater project. Councilmembers supported the farmer's market idea, with the appropriate oversight, and would like the planning committee to provide more information on how the event will be managed at the May meeting, prior to approval.

Consider a request for a conditional use permit (CUP) to allow five designated parking stalls to be used for overnight, outdoor storage of customer vehicles during non-business hours, for a proposed transmission and auto repair business, located at 120 3rd Street South: Assistant Administrator/ Planner Taylor reviewed a CUP application that would allow overnight, outdoor storage of up to five customer vehicles, in conjunction with their proposed transmission and auto repair business. All vehicles parked within the proposed storage area along the west side of the existing parking lot would be required to be licensed and operable and removed within seven days. The property was recently updated and has been maintained in good condition, and no additional site improvements would be necessary to comply with city code. Staff believes the request is reasonable and consistent with other commercial uses in the city and recommended approval of the request. The Planning Commission held the required public hearing and approved the CUP application at their March 9, 2009 meeting. Planner Taylor stated that the applicants, Gordon and Suzanne Tellinghuisen, have operated a similar business in the past, and that transmission and auto repair is a permitted use in the B-2 Central Business district.

Councilmember Seeberger introduced the following resolution and moved its adoption:

Resolution 09-07

RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW FIVE DESIGNATED PARKING STALLS TO BE USED FOR OVERNIGHT, OUTDOOR STORAGE OF CUSTOMER VEHICLES DURING NON-BUSINESS HOURS, FOR A PROPOSED TRANSMISSION AND AUTO REPAIR BUSINESS, LOCATED AT 120 3RD STREET SOUTH,

LEGALLY DESCRIBED AS THE EAST ONE-HALF OF LOTS 10-12, BLOCK 71 BAYPORT, WASHINGTON COUNTY, MINNESOTA

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
Connie Carlson – aye

Dan Johnson – aye
Torry Kraftson – aye

Judy Seeberger – aye

Presentation of 2008 audit: Andy Berg, Abdo Eick and Meyers, LLP, stated their firm issued an unqualified, clean opinion of the city's financials. The management letter was reviewed in detail, and the findings and responses were discussed. It was noted the water fund has shown a decrease in operating revenues and an increase in operating expenses for the third straight year, with the operating margin approaching a loss of \$200,000.00. The city is looking into a rate study to determine if rates should be adjusted. The sewer fund had operating losses in 2006 and 2008. He stated the city should have sufficient funding sources for future sewer and water improvements/repairs. However, these funds could be depleted rather quickly, should a repair be necessary.

It as moved by Councilmember Johnson and seconded by Councilmember Carlson to accept the management letter and audit report for the year ended December 31, 2008, as prepared by Abdo, Eick & Meyers, LLP, for the City of Bayport. Motion carried.

Consider adopting an out-of-state travel policy for elected officials: As noted in the 2008 audit findings, new accounting standards require a policy be in place for out-of-state travel for elected officials. Administrator McGuire noted there has been no out-of-state travel by an elected official, paid for by the city, since the law changed requiring a policy.

It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to adopt the Elected Official Out-of-State Travel Policy. Motion carried.

Consider authorization to pursue Mn/DOT funding for railroad crossing signals and gates: Engineer Peters explained that the city's nine or ten at grade railroad crossings with passive warning devices have been grandfathered in under the quiet zone rules for the existing night-time whistle ban. However, the Federal Railroad Administration (FRA) will require the city to upgrade the crossings with signals and gates at some point in time. SEH recommended that the city pursue placement on the Mn/DOT list requesting signal funding assistance, which could take three to five years. The FRA would extend the time for upgrades while the city pursues the funding. The Mn/DOT program typically pays 90% of the estimated \$250,000.00 per grade crossing. If funding assistance is not obtained, the city would bear the entire cost to install the signals. Discussion followed on revising the crossing priority list to be sent to Mn/DOT. Councilmember Kraftson recommended the crossing at either 2nd Avenue South or 3rd Avenue South be put on the priority list, due to a high level of residential traffic.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to submit a letter to Mn/DOT requesting that the City of Bayport be considered for funding assistance for installation of new railroad signals with gates and that SEH explore adding more intersections to the priority list. Motion carried.

Update on Safe Routes to School Grant: Engineer Peters stated that the City of Bayport was not successful in obtaining a grant through the Minnesota Safe Routes to School Project for the pedestrian crossing project at Highway 95. Mn/DOT received 105 applications and awarded 25 grants. It is unclear whether Mn/DOT will have additional funding for the grant program in the future.

Councilmember Kraftson reiterated his position of installing a grade-separated crossing to provide a safe crossing option.

COUNCIL ITEMS AND ANNOUNCEMENTS

1. Councilmember Carlson stated she had received some calls regarding trains violating the night-time whistle ban. Administrator McGuire stated that the city tracks complaints for violations of the whistle ban and trains blocking roadways and has contacted the Union Pacific regarding these issues. It appears to be a lack of communication on the railroad's part to provide the rules to their engineers. He encouraged residents to call City Hall or contact the railroad directly if a violation is observed. City staff will contact the railroad to pursue posting of contact information on the railroad's existing signs.

CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS

Set date for city department quarterly review (Fire Department) – May 4, 2009 at 5:00 p.m.: It was moved by Councilmember Johnson and seconded by Councilmember Seeberger to set a workshop meeting of the Bayport City Council for Monday, May 4, 2009, 5:00 p.m., at Bayport City Hall, for a city department quarterly review of the Fire Department. Motion carried.

Update on budget cuts: The city has not yet received word on local government aid (LGA) reductions and staff anticipates it may be June before official numbers are released by the state. Administrator McGuire reviewed proactive steps staff is taking in anticipation of a cut in LGA funding, including delaying capital purchases, eliminating unnecessary overtime, deferring hiring of an additional police officer, implementation of an unpaid 40 hour furlough for non-union staff, reviewing all service contracts, and looking for additional revenue sources. He discussed doing an employee survey but will hold off until the status of LGA cuts is known. Mayor Nowaczek recommended completing a community survey in the next year or two; Administrator McGuire noted the cost would be in the \$12,000.00-\$15,000.00 range for this type of survey. He also noted that a policy on snowplowing would be discussed at a future meeting. A summary of City Hall work hours and staff schedules was reviewed.

Closed session to discuss pending litigation: It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn to closed session at 8:03 p.m. to discuss pending litigation. Motion carried.

Mayor Nowaczek resumed the regular meeting at 8:45 p.m. He stated the City Council discussed a settlement agreement between the City of Bayport, City Administrator Mike McGuire and the Public Employment Retirement Association (PERA). Attorney Vivian reviewed the terms of the negotiated settlement. One of the terms requires Administrator McGuire to take a 30-day separation from the City of Bayport effective May 31, 2009.

It was moved by Councilmember Johnson and seconded by Mayor Nowaczek to approve the PERA settlement agreement and authorize the Mayor and City Administrator, as representatives of the city, to execute the agreement. The motion carried 4-1, with Councilmember Kraftson voting nay.

Councilmember Kraftson stated he cast a nay vote because he was in favor of requiring Administrator McGuire to begin the 30-day separation effective April 30, 2009, as proposed in the original agreement.

ADJOURNMENT

It was moved by Councilmember Johnson and seconded by Councilmember Kraftson to adjourn the meeting at 8:55 p.m. Motion carried.