

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBER  
SEPTEMBER 8, 2009  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of September 8, 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, Torry Kraftson and Judy Seeberger

Members Absent: None

Others Present: Administrator Mike McGuire, Police Chief Laura Eastman, Public Works Supervisor Mel Horak, Finance Officer Wanda Madsen, Engineer Barry Peters, Assistant City Administrator/Planner Sara Taylor, and Attorney Nick Vivian

**PROCLAMATIONS/COMMENDATIONS/PETITIONS**

1. The August 2009 recycling award went to Pedar Brown.
2. Mayor Nowaczek reminded residents that Derby Days, sponsored by the Bayport Community Action League (BCAL), is scheduled for September 18 and 19, 2009. He noted that \$500.00 is still needed to cover the cost of the Saturday evening fireworks. Chairperson Sue Davis provided a rundown of the events and asked that anyone interested in volunteering should contact her. Mayor Nowaczek thanked the BCAL for their efforts.

**OPEN FORUM**

1. Pastor Rich Larsen, Bethlehem Lutheran Church, reviewed an invitation sent to City Councilmembers and staff to attend a special worship service on Sunday, September 27, 2009, at 9:00 a.m. The intent is to thank city leaders for their service, as well as recognize the partnerships that exist amongst many groups to enhance the quality of life in Bayport. He asked councilmembers to participate in a forum later that morning to discuss city government service.
2. Cornell MacDonald, 349 6<sup>th</sup> Street South, stated a sinkhole in the street is causing erosion problems underneath his driveway apron. He has received conflicting information as to the ownership of the street area in question and the liability for correcting the issue. Staff was directed to investigate and work with Mr. MacDonald to resolve the issue.

**CONSENT AGENDA**

Mayor Nowaczek read items 1-12 on the consent agenda.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 09-20**

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING  
CONSENT AGENDA ITEMS 1-12 FROM THE SEPTEMBER 8, 2009 CITY COUNCIL  
AGENDA**

1. August 3, 2009 City Council workshop meeting minutes
2. August 3, 2009 City Council regular meeting minutes
3. August 17, 2009 and August 24, 2009 City Council workshop meeting minutes
4. August payables and receipts

5. August building, plumbing and mechanical permits
6. Letter of interest for Washington County All-Hazard Mitigation Plan
7. Police Department Safe and Sober Grant Agreement, October 1, 2009-September 30, 2012
8. Special event application by People's Church for a community carnival at Perro Park on September 13, 2009
9. Special event application by Bethlehem Church for a fall festival at Village Green Park on October 3, 2009
10. Payment request for MSCWMO Perro Creek Outlet Project
11. Pay application #3 for Barker's Alps Park improvements
12. Barker's Alps water main relocation

Councilmember Carlson requested clarification on the process for approving the waiver of the \$50.00 special event application fee for the church events (items #8 and #9). Administrator McGuire noted that all requests noted are automatically approved, with the passing of the consent agenda resolution. Councilmember Kraftson requested clarification on reimbursement for the MSCWMO project (item #10), and Finance Officer Madsen indicated billing/reimbursement has been ongoing throughout the project. Councilmember Kraftson questioned whether there was another option for the water main adjustment at Barker's Alps Park (item #12). Public Works Supervisor Horak indicated it is a loop water main that cannot be turned off and that the city received favorable pricing on the project.

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	Torry Kraftson – aye
Connie Carlson – aye	Judy Seeberger – aye
Dan Johnson – aye	

**PUBLIC HEARINGS – None**

**COUNCIL LIAISON REPORTS**

Councilmember Seeberger reported the Planning Commission did not meet in August.

Councilmember Kraftson reported on the August 13, 2009 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). The annual water monitoring report indicates minor contaminant levels in Perro Creek, caused by fowl/animal excrement, are similar to last year and continue to be monitored. The next meeting has been rescheduled to Thursday, September 17, 2009, at 5:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported on the August 27, 2009 meeting of the Library Board. He noted that in order to retain public library status, the Minnesota Department of Education has certified that the library must receive \$124,551.00 in public support for 2010. He explained that half of the library's support must come from public sources and encouraged people to make donations through the library foundation. The next meeting is scheduled for Thursday, September 24, 2009, 6:00 p.m., at the library, and the public is invited to attend.

Councilmember Johnson reported the Cable Commission budget committee met on August 6, 2009, with no definitive action taken, and the regular meeting was held on August 19, 2009. The next meeting will be held in October.

Councilmember Carlson reported the Lower St. Croix Partnership's next meeting is scheduled for Wednesday, September 16, 2009, 7:00 p.m., at the St. Croix County Government Center.

## **UNFINISHED BUSINESS**

Review of utility rate study: Ralph Teschner provided an overview of the utility rate study, noting residential rates have not increased in at least 10 years, with an increase in commercial/industrial rates in 2005. He explained the six primary factors contributing to a proposed water and sewer rate increase. The study proposes a residential increase from \$2.50 to \$3.30 per 1,000 gallons (water) and from \$2.75 to \$3.45 per 1,000 gallons (sewer). The tiered rates for commercial/industrial water and sewer would also increase. Based on a monthly usage of 7,500 gallons (standard figure used by the League of Minnesota Cities), the average residential utility bill would increase \$10.75 per month in 2010, or \$129.00 annually. An analysis of Bayport's 685 residential accounts in 2008 indicated a monthly average usage of 6,005 gallons per month, and Mr. Teschner estimated the average residential bill would increase \$100.00 per year. A new conservation rate for residential usage is also being proposed and is required by Minnesota Statutes for public water suppliers in the metropolitan area serving more than 1,000 people. He clarified there is no minimum standard for the conservation rate and the rate would be at the discretion of the City Council. He stated the current tiered rates for commercial/industrial usage serve as the conservation rate for that user group. Councilmember Kraftson remarked on the substantial increases for commercial/industrial users (61%-tier 1, 48%-tier 2, 30%-tier 3). Discussion followed on common practices for utility increases and options for increases.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to accept the 2009 Enterprise Fund Utility Rate Study. Motion carried.

## **NEW BUSINESS**

Consider 2010 preliminary budget: Administrator McGuire provided an overview of the 2010 proposed budget. He reviewed the budget goals, budget process, conditions that influenced the budget planning and accomplishments of the budget. Department expenditure budgets were cut 2% overall. The proposed levy is \$1,041,975.00, a 1.9% increase over 2009. He noted the city's debt balance will be \$895,000.00 at the end of 2009, with a levy impact of \$38,215.00 for 2010. The 2010 capital improvement plan (CIP) was reviewed in detail, as well as the 2011-2014 CIP. There are projected losses in the city's enterprise funds in 2009 and 2010, which is the reason staff is investigating utility rate increases.

Councilmember Kraftson questioned the \$18,000.00 line item expenditure for Mayor and Council dues and memberships, noting this was a substantial increase from the previous year. Administrator McGuire stated the Mayor and Council budget, as well as the Administration budget, can fluctuate due to the nature of expenses included in these budgets. He explained that the library levy (\$148,025.00 proposed) exempts the city from the Washington County library levy. Councilmember Kraftson inquired as to city policy regarding professional organization memberships and staff participation in conferences. Administrator McGuire noted there is no formal policy and explained the importance of staff taking required credentialing courses and staff development opportunities. Mayor Nowaczek thanked city staff for preparing the proposed budget that decreases city spending by approximately 3.25%. Discussion followed on options for approving the preliminary budget and levy, including use of tax stabilization funds to avoid a levy increase.

Councilmember Johnson introduced the following resolution and moved its adoption:

**09-21**

### **RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, ADOPTING THE PRELIMINARY CITY BUDGET FOR 2010**

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

Councilmember Johnson introduced the following resolution and moved its adoption:

**09-22**

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
ESTABLISHING THE PRELIMINARY LEVY CERTIFICATION FOR THE CITY'S GENERAL  
AND DEBT SERVICE FUND AND LIBRARY FUND AT \$1,041,975**

The motion for adopting the foregoing resolution was duly seconded by Councilmember Kraftson 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

Councilmember Johnson introduced the following resolution and moved its adoption:

**09-23**

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
ADOPTING THE PRELIMINARY CAPITAL IMPROVEMENT PLAN FOR  
2010 THROUGH 2014**

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

Consider Belwin Athletics donation request for athletic fields (\$2,400); Andersen Elementary donation request for playground equipment (\$1,000); Community Thread donation request for services/programming (\$1,500); Youth Service Bureau donation request for services/programming (\$1,300): Mayor Nowaczek reviewed the standard the City Council has used when considering requests from outside organizations. In the past, the City Council has favorably considered requests from organizations that provide services that benefit the city and services the city would provide if it weren't for the outside organization. To streamline the process for donations, requests are being considered annually as part of the budget process. Discussion followed on the merits of the donation requests, the timeliness of responding to the requests and the challenges of funding these requests. Attorney Vivian clarified that donations need to meet certain criteria and a finding must be identified that funding is being provided in lieu of the city providing the service.

It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to continue the donation requests from the outside organizations to the October or November meeting and direct staff to prepare a written summary of the criteria to consider for each of the requests, including how the funds would otherwise be spent, the benefits to residents, and to coordinate a presentation by each of the organizations. Motion carried.

Consider authorization to solicit quotes for an inspection and cleaning of city sewer lines: Engineer Peters provided a background of the current sanitary sewer and water mains infrastructure, explaining that a major portion of the city's sanitary sewer mains are made of vitrified clay pipes that become brittle and are subject to cracking/breaking. Staff would like to set up a two-year program to investigate

the sanitary sewer mains and manholes to identify and prevent inflow/infiltration (I/I) issues and assist with the city's sewer cleaning process. The mains (approximately 68,000 linear feet) would be televised and cleaned and the 300 manholes inspected. This will also help staff set up an improvement program to address the aging infrastructure system. The cost for the inspections could be put toward I/I abatement as directed by the Metropolitan Council of Environmental Services. The estimated cost to inspect half of the city's system is \$50,000.00. Staff recommends that the City Council authorize the project be put out for quotes. Discussion followed on the I/I surcharges, the city's aging infrastructure and funding sources for the project.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to authorize obtaining quotes to clean and televise approximately half of the city's sanitary sewer system, including manhole condition surveys. Motion carried.

Consider appointing a new City Administrator: Administrator McGuire reviewed a draft contract for the new city administrator. The contract has been approved by the city attorney. Discussion followed on the benefits package, termination benefits, memberships and conferences, and professional development. The contract will be revised to reflect suggested changes to the professional development and termination benefits sections. Councilmember Seeberger requested that the employee benefits package be reviewed and Administrator McGuire suggested reviewing it in conjunction with the 2010 union contracts. Mayor Nowaczek stated the City Council is recommending Mitch Berg for the city administrator position, at a starting salary of \$83,589.00 per year, with a start date of approximately October 15, 2009.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to authorize Mayor Nowaczek to enter into an employment contract with Mitch Berg, with the changes as stated. Motion carried.

## **COUNCIL ITEMS AND ANNOUNCEMENTS**

1. Councilmember Seeberger reviewed correspondence she received from a resident regarding a code violation with an unfenced swimming pool. Administrator McGuire reported the city's building official had contacted the owners of the property regarding the violation, but the owners have not complied to date. The next step would be the city attorney sending a letter to the offending property owner, giving them 10 days to comply.
2. Councilmember Johnson thanked staff for their work on the budget proposal.
3. Councilmembers Kraftson and Seeberger recognized Administrator McGuire's efforts in the selection process for the new city administrator.

## **CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS**

Barker's Alps Park budget summary: Administrator McGuire provided an update on the improvements, noting that staff anticipates the project to come in on budget. Plans are being formulated for a ribbon-cutting ceremony upon completion. Discussion followed on approving a change order to Miller Excavating's contract in the amount of \$48,045.46. The change order will be considered upon documentation of the request. Councilmember Kraftson recognized and thanked Steve Miller for his company's work on the project.

### Closed session to discuss pending litigation:

It was moved by Councilmember Kraftson and seconded by Councilmember Seeberger to adjourn to closed session at 8:40 p.m.

Mayor Nowaczek resumed the regular meeting at 9:53 p.m. Attorney Vivian summarized that the City Council met in closed session to discuss strategy with legal counsel with respect to a pending lawsuit with Group 41, the City of Bayport and the Bayport Marina.

**ADJOURNMENT**

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn the meeting at 9:54 p.m. Motion carried.

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City Administrator/Clerk