

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
FEBRUARY 7, 2011  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of February 7, 2011 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 Susan St. Ores, Councilmembers Connie Carlson, Michele Hanson, Mark Ostertag and Judy Seeberger

Members Absent: None

Others Present: Administrator Mitch Berg, Public Works Supervisor Mel Horak, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, Attorney Nick Vivian

**APPROVAL OF AGENDA**

Administrator Berg requested that *Law Enforcement Labor Services (LELS) Contract Update* be added as New Business #6. He indicated the city has reached a tentative agreement with LELS, representing Bayport Police Department Local #226. He also requested that *Proposed City Council Workshop* be added as New Business #7.

It was moved by Councilmember Carlson and seconded by Councilmember Hanson to approve the February 7, 2011 City Council agenda, with the addition of New Business agenda items #6 and #7. Motion carried 5-0.

**PROCLAMATIONS/COMMENDATIONS/PETITIONS**

1. The January recycling award recipient is Ken Kaiser who will receive \$30.00 for his recycling efforts, with funding made possible by a grant from Washington County.

**OPEN FORUM**

1. Grace Zimmer, 287 5<sup>th</sup> Street North, and Morgan MacDonald, Lakeland, announced that the 5<sup>th</sup> grade students at Andersen Elementary would be holding a fund raiser at Leo's Malt Shop in Stillwater on March 7 and 8, 2011, 4:00-8:00 p.m. Funds raised will be donated to St. Joseph's Children Home, and the students will also learn the basics of restaurant operation.
2. Chris Henning, 540 2<sup>nd</sup> Avenue South, shared concerns regarding winter maintenance of his street, which is very steep, and encouraged the city to be diligent in its snow plowing efforts ensure safe passage.

**CONSENT AGENDA**

Mayor St. Ores read items 1-8 on the consent agenda.

1. January 3, 2011 City Council workshop meeting minutes
2. January 3, 2011 City Council regular meeting minutes
3. January payables and receipts
4. January building, plumbing and mechanical permit report
5. Joint powers agreement with Washington County for state fuel contract
6. City liability insurance waiver

7. Approval of BCAL skating party at Perro Park on February 18, 2011
8. Renewal of boat trailer parking agreement with Andersen Corporation

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 11-02**

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
APPROVING CONSENT AGENDA ITEMS 1-8 FROM THE  
FEBRUARY 7, 2011 CITY COUNCIL AGENDA**

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

|                      |                      |
|----------------------|----------------------|
| Susan St. Ores – aye | Mark Ostertag – aye  |
| Connie Carlson – aye | Judy Seeberger – aye |
| Michele Hanson – aye |                      |

**RIVERFRONT ADVISORY COMMISSION REPORT**

Commissioner Sandy Ness reviewed the January 11 and 25, 2011 meeting minutes, noting that a public input session on the Commission's work has been scheduled for Tuesday, March 29, 2011, 5:00-7:00 p.m. The next Riverfront Advisory Commission meeting is scheduled for Tuesday, March 8, 2011, 6:00 p.m. at City Hall.

**COUNCIL LIAISON REPORTS**

Councilmember Hanson noted the action taken at the January 18, 2011 Planning Commission would be covered by Assistant Administrator/Planner Taylor later in the meeting. The next meeting is scheduled for Tuesday, February 22, 2011 at 6:00 p.m.

Councilmember Seeberger reported no meetings were held for the Lower St. Croix Partnership or Andersen Citizen Advisory Committee.

Mayor St. Ores reviewed the January 13, 2011 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). The focus on grants for the coming year will be residential, and interested homeowners are encourage to contact the MSCWMO to apply for a grant and/or assistance with design work or consultation on watershed strategies for residential yards. The MSCWMO is in the process of designing a new website. The next meeting is scheduled for Thursday, February 10, 2011, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Carlson reviewed the Library Board meeting of January 27, 2011. New board member Linda Walters was welcomed and new officers were appointed. Joe Reding will serve as president and Amy Zimmer as vice president. Volunteer Sandy Ness was appointed to serve as a liaison between the Library Board and the Library Foundation. The next meeting is scheduled for Thursday, February 24, 2011, 6:00 p.m., at the library and the public is encouraged to attend.

Councilmember Ostertag stated the Cable Commission is scheduled to meet February 16, 2011.

**UNFINISHED BUSINESS**

1. Water Service Lateral and Connection Improvement Project for 338 5<sup>th</sup> Street North and 354 5<sup>th</sup> Street North: Administrator Berg and Public Works Supervisor Horak explained the need to replace two water service connections to properties on 5<sup>th</sup> Street North to mitigate leaks resulting in storm sewer runoff and loss of revenue, due to unmetered water. The city plans to develop a policy to proactively address future emergency repairs, which are likely, due to the city's aging sewer and water infrastructure.

The property owners waived their rights to the initial improvement hearing and the following resolutions are necessary to comply with the 429 special assessment process:

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 11-03**

**RESOLUTION DECLARING COST TO BE ASSESSED AND ORDERING PREPARATION OF PROPOSED ASSESSMENT FOR THE 338 5<sup>TH</sup> STREET NORTH AND 354 5<sup>TH</sup> STREET NORTH WATER SERVICE LATERAL AND CONNECTION IMPROVEMENT PROJECT**

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

|                      |                      |
|----------------------|----------------------|
| Susan St. Ores – aye | Mark Ostertag – aye  |
| Connie Carlson – aye | Judy Seeberger – aye |
| Michele Hanson – aye |                      |

Councilmember Hanson introduced the following resolution and moved its adoption:

**Resolution 11-04**

**RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT FOR THE 338 5<sup>TH</sup> STREET NORTH AND 354 5<sup>TH</sup> STREET NORTH WATER SERVICE LATERAL AND CONNECTION IMPROVEMENT PROJECT**

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

|                      |                      |
|----------------------|----------------------|
| Susan St. Ores – aye | Mark Ostertag – aye  |
| Connie Carlson – aye | Judy Seeberger – aye |
| Michele Hanson – aye |                      |

**NEW BUSINESS**

Consider a request to amend Conditional Use Permit 83-5C to specify permitted uses at 101 5<sup>th</sup> Avenue South, Bayport, Minnesota: Assistant Administrator/Planner Taylor reviewed the background for the request to amend Conditional Use Permit (CUP) 83-5C, which was originally issued as part of a planned unit development for the Bayport Marina, Waterford on the St. Croix condominiums, and the former Clyde's restaurant. Since that time, the parcels have been split and sold off to three separate owners, but the uses have remained consistent. In 2008, it was discovered that CUP 83-5C was never officially recorded, as part of the review process for a new restaurant. Group 41, Ltd., current owner of the restaurant, legally challenged the city's issuance of a new CUP with restricted hours of operation for the new restaurant, and the courts ruled that the 1983 CUP governed. As a result, the city and Group 41, Ltd., reached a settlement agreement, part of which was to amend the 1983 CUP to indicate the specific uses allowed. The Planning Commission recommended approval of the application at its January 18, 2011 public hearing on the issue. City Attorney Vivian further clarified that the resolution being acted upon tonight is one of the components of the mediated settlement agreement and adds specific approved uses to the CUP and does not add any new uses. He noted the unusual nature of the amended CUP in that it governs three separate entities, owned by separate groups. He also noted future City Council action is anticipated to resolve a dispute relating to the location of the existing sign advertising the development. Discussion followed on creating a separate CUP for each property in the future, however the property owners would need to make such a request.

Councilmember Seeberger introduced the following resolution and moved its adoption:

**Resolution 11-05**

**RESOLUTION APPROVING AN AMENDMENT TO CONDITIONAL USE PERMIT (CUP) 83-5C TO SPECIFY PERMITTED USES ALLOWED AT 101 5<sup>TH</sup> AVENUE SOUTH, 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:

- |                      |                      |
|----------------------|----------------------|
| Susan St. Ores – aye | Mark Ostertag – aye  |
| Connie Carlson – aye | Judy Seeberger – aye |
| Michele Hanson – aye |                      |

Consider accepting the dedication of public right-of-way and a private property line adjustment along 6<sup>th</sup> Street North: City Engineer Peters explained that in 2004, 6<sup>th</sup> Street North, from 5<sup>th</sup> Avenue North to the prison property, became a city street, when the county turned the road over to the city. At that time, it was discovered the road was not built within a dedicated public right-of-way, affecting two property owners, Matt Bell and Robert Hayner. A right-of-way highway easement was signed by the Bell’s, which gave the city the rights to use, maintain and upgrade the area, while the Bell’s maintained ownership of the underlying property. The Hayner’s did not sign an easement in 2004, and now desire to transfer fee ownership of the affected parcels in the platted right-of-way to the city, which would result in the city taking ownership of the underlying property. As part of this process, the two property owners are also requesting a lot line adjustment that will mitigate encroachment of the Bell’s home onto the Hayner’s property and bring the house and garage into compliance with city code setback requirements. The lot line adjustment can be handled administratively, and staff recommends approval of the Hayner’s dedication of the public right-of-way to the city, with the noted conditions of approval.

Councilmember Seeberger introduced the following resolution and moved its adoption:

**Resolution 11-06**

**RESOLUTION ACCEPTING THE TRANSFER OF FEE OWNERSHIP OF PROPERTY FROM ROBERT AND DORIS HAYNER, WHICH CONSISTS OF A PORTION OF 6<sup>TH</sup> STREET NORTH THAT WAS NOT CONSTRUCTED WITHIN A DEDICATED RIGHT-OF-WAY IN BAYPORT, WASHINGTON COUNTY, MINNESOTA**

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

- |                      |                      |
|----------------------|----------------------|
| Susan St. Ores – aye | Mark Ostertag – aye  |
| Connie Carlson – aye | Judy Seeberger – aye |
| Michele Hanson – aye |                      |

Consider adopting a PERA leave certification program for non-union, full-time city employees for 2010: Administer Berg reviewed the request to continue participation in a PERA leave certification program for the city’s seven full-time non-union employees who were required to take mandatory furlough in 2010. The city realized a savings of approximately \$21,717.00 from non-union employees taking leave without pay. Under the program, employees would be able to buy back the lost hours to meet their pension eligibility requirements and the city has the option of contributing the employer portion. He recommended approval of program participation, including contributing the employer’s portion, estimated at \$2,000.00, plus interest. Councilmembers thanked staff for their contribution and sacrifice to help with the budget shortfall.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 11-07**

**RESOLUTION APPROVING PARTICIPATION IN A LEAVE CERTIFICATION PROGRAM-  
BUDGET SAVINGS LEAVE PROGRAM**

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

|                      |                      |
|----------------------|----------------------|
| Susan St. Ores – aye | Mark Ostertag – aye  |
| Connie Carlson – aye | Judy Seeberger – aye |
| Michele Hanson – aye |                      |

Consider adoption of a city snow plowing and ice control policy: Administrator Berg reviewed the draft policy, noting the need to address changing weather conditions and utilize multiple methods to maintain safe passage throughout the city. He indicated the city has discussed options for 2<sup>nd</sup> Avenue South, as requested by a resident earlier in the meeting, and would be adding the street to the list of identified hills and icy areas in Section IV. Public Works Supervisor Mel Horak stated the entire city, including alleys, is typically plowed within seven hours. Discussion followed on creating a priority list of alley snow plowing routes, clarifying the ice road description, adding additional roadways to Section IV, assuring the safe passage of emergency vehicles, increasing the priority of the ice rinks, and verifying/adjusting the school's restricted times in Section V. Staff will incorporate the City Council's suggestions and bring the policy back for approval at the next meeting.

It was moved by Councilmember Seeberger and seconded by Councilmember Hanson to table further discussion to the next meeting. Motion carried.

Consider the carryover of expenditures from 2010 to 2011 for the city building electrical lighting retrofit project: Administrator Berg reviewed the request to carry over \$14,000.00 from the Municipal Building Fund for the recent electrical lighting retrofit project. The amount includes change orders that were identified during the retrofit process. Mayor St. Ores requested that the City Council have the opportunity to consider future expenditure requests prior to the start of a project.

It was moved by Councilmember Carlson and seconded by Councilmember Hanson to authorize an expenditure not to exceed \$14,000.00 from the Municipal Buildings Maintenance Fund #415 for the city building electrical lighting retrofit project. Motion carried 5-0.

Law Enforcement Labor Services (LELS) Contract Update: Administrator Berg reviewed the tentative collective bargaining agreement between the city and LELS, which represents Bayport Police Department Local #226. He indicated the two-year agreement for 2011 and 2012 includes a 2% wage increase each year, and requested City Council approval for the new wage agreement. Councilmember Seeberger reiterated her previous position that employees should contribute a greater share of their health care premiums and was disappointed that the employee contribution did not change from the previous contract. Mayor St. Ores noted the changing economic climate and adjustments that employees may need to make in the future.

It was moved by Councilmember Seeberger and seconded by Councilmember Ostertag to authorize the City Administrator to enter into *Agreement between City of Bayport and Law Enforcement Labor Services, Inc. (Local #226)*, effective January 1, 2011 to December 31, 2012, pursuant to the terms outlined in the city's January 5, 2011 letter to Law Enforcement Services Business Agent Kim Sobieck. Motion carried 5-0.

Proposed City Council Workshop: Administrator Berg recommended the City Council hold a workshop prior to the regularly scheduled March 7, 2011 City Council meeting to review and discuss ideas offered by Councilmembers, as well as review staff projects and the city's strategic planning process that was completed 2010. Councilmembers were encouraged to forward a list of their suggestions to Administrator Berg.

It was moved by Councilmember Carlson and seconded by Councilmember Hanson to hold a City Council workshop on Monday, March 7, 2011, 5:00 p.m., at Bayport City Hall. Motion carried 5-0.

### **COUNCIL ITEMS AND ANNOUNCEMENTS**

1. Councilmember Seeberger recognized Bread Art, the local bakery and coffee shop, on its newly remodeled business that provides expanded seating. She also noted that the new restaurant, Bayport BBQ, would be having its grand opening on February 18, 2011.
2. Councilmember Seeberger provided an update on the Beyond the Yellow Ribbon initiatives. Croixdale residents sent a package to troops in Afghanistan, and Councilmember's Seeberger's husband will be deployed at the end of March.
3. Councilmember Ostertag thanked everyone who supported the recent Fire Department fund raiser at the Bayport American Legion.

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

City Administrator update: Regarding flood preparations, Administrator Berg noted the city would be using its website as the main source of information for the expected flooding this spring. A postcard will be sent to residents impacted by the 2001 flood. The city will be compiling a list of volunteers willing to assist affected residents with sandbagging efforts, and sandbags will be available for residents. Prior to anticipated flooding, residents are encouraged to cap off their drains to prevent sewage backup into basements and to cut off the electrical supply. He reminded residents that it takes approximately 30 days to get FEMA flood insurance. City staff is generating a flood action plan, which should be available for City Council review in March.

### **ADJOURNMENT**

It was moved by Councilmember Seeberger and seconded by Councilmember Carlson to adjourn the meeting at 7:43 p.m. Motion carried 5-0.

---

City Administrator/Clerk