

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
NOVEMBER 13, 2012  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of November 13, 2012 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 Dan Goldston, Michele Hanson and Mark Ostertag

Members Absent: Councilmember Connie Carlson

Staff Present: Administrator Mitch Berg, Public Works Supervisor Mel Horak, Engineer Barry Peters, Attorney Andy Pratt and Assistant Administrator/Planner Sara Taylor

**APPROVAL OF AGENDA**

Administrator Berg requested the addition of *Special event application from Cub Scout Pack 113 for a wreath sale at the Village Green on November 17, 2012* to the consent agenda and *Consider a plan to address pet waste* to new business.

It was moved by Councilmember Ostertag and seconded by Councilmember Goldston to approve the amended November 13, 2012 City Council agenda. Motion carried 4-0.

**PROCLAMATIONS/COMMENDATIONS/PETITIONS/ANNOUNCEMENTS**

1. The October recycling award recipient was Jane Keyes who will receive \$30.00 for her recycling efforts, with funding made possible by a grant from Washington County.
2. Mayor St. Ores recognized and thanked residents Dan and Kit Ridgway and Dan and Ginny Peulen for their volunteer efforts this year to plant and maintain city flower gardens.
3. Mayor St. Ores thanked the residents who served as election judges for the 2012 primary and general elections.
4. Mayor St. Ores noted that tonight's meeting would be broadcast live until 7:00 p.m., to accommodate the regular broadcast schedule of Valley Access Channels and rebroadcast in its entirety on Channel 16 throughout the month.

**OPEN FORUM** - None

**CONSENT AGENDA**

Mayor St. Ores read items 1-13 on the amended consent agenda.

Councilmember Hanson introduced the following resolution and moved its adoption:

**Resolution 12-21**

**RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-13 FROM THE  
NOVEMBER 13, 2012 CITY COUNCIL AGENDA**

1. October 1, 2012 City Council regular meeting minutes
2. October 1, 2012 City Council workshop meeting minutes

3. October payables and receipts (check numbers 1135035-1135166)
4. October building, plumbing and mechanical permits report
5. City donation of excess, outdated fire gear and equipment
6. Special event application from the 5<sup>th</sup> Grade Girls Scouts for a camp out within the south portion of Lakeside Park, adjacent to the Girl Scout building on Friday, May 3 and Saturday, May 4, 2013
7. Special event application from BCAL for "Lighting of the Green" at Village Green Park on Wednesday, December 5, 2012
8. Adoption of Washington County All-Hazard Mitigation Plan (*Resolution 12-21A*)
9. Fire mutual aid agreements with Somerset and St. Joseph, Wisconsin
10. Snow removal agreement with Mn/DOT for trunk highways within Bayport
11. Central St. Croix Valley Joint Cable Commission and Valley Access Channels budget for 2013
12. Canvassing the tabulation of votes and declaring the results from the 2012 General Election
13. Special event application from Cub Scout Pack 113 for a wreath sale at the Village Green on November 17, 2012

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

Susan St. Ores – aye	Michele Hanson – aye
Dan Goldston – aye	Mark Ostertag – aye

**PUBLIC HEARINGS** - None

**COUNCIL LIAISON REPORTS**

Councilmember Ostertag reviewed the November 8, 2012 Cable Commission budget workshop, noting the discussion focused on the franchise renewal.

Councilmember Hanson reviewed the October 19, 2012 meeting of the Cable Commission, which she attended for Councilmember Ostertag. The 2013 budgets were approved, with a 2% salary increase for full-time staff. An amplifier was installed at the library that will improve the transmission of broadcasts from City Hall. The annual "Breakfast with Santa" event will be held on Saturday, December 8, 2012, 9:00 a.m.-12 noon, at the Valley Ridge Mall.

Mayor St. Ores reviewed the November 8, 2012 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO), noting the organization is looking into a new office space. She also recognized the fire and police departments for sponsoring the successful public safety open house on October 31, 2012.

**STAFF/CITY ADMINISTRATOR REPORTS**

- Administrator Berg summarized the written reports submitted by the Fire and Police departments. He noted the public safety departments will provide tours of their departments for community groups.
- Public Works Supervisor Horak reviewed the department's recent and ongoing fall projects. He indicated crews hope to complete placement of the new benches along Highway 95 by the end of the week.
- Assistant Administrator Taylor reviewed her report and highlighted current administration and planning activities. She noted there was an average countywide voter turnout of 82.5% in last week's general election. On November 14-15, she will be participating in a post-election review to verify accuracy of the reported voting results. The Cities of Bayport, Oak Park Heights, Stillwater and Woodbury were randomly selected to participate in this review. Councilmembers were asked to check their availability to meet with park consultant Larry Wacker on Monday, December 3, at 4:30

p.m., to discuss the Perro Park Master Plan. There will be an opening on the Planning Commission beginning January 1, and residents interested in serving on this committee should contact City Hall by November 20. She noted the next issue of the city newsletter, due out in late December, will focus on the recent TCE groundwater study, and that the city received a grant for public outreach and education on TCE that will help offset publication of the newsletter.

- Administrator Berg summarized his written report. He noted the city has improved the short-term parking signs near the Post Office to help alleviate parking concerns and has completed a tree inventory to assist in developing a plan to address Emerald Ash Borer disease. He indicated Washington County personnel will attend an upcoming City Council meeting to present plans to realign Pickett Avenue with Point Road in 2014. A public open house will also be scheduled on this project. The tentative TCE improvement project timeline was reviewed, noting an anticipated project completion date by the end of summer 2014. A letter has been sent to the Union Pacific (UP) addressing excessive train horn noise and was signed collaboratively by Mayor St. Ores and officials from Baytown Township, Lake Elmo, Oak Park Heights, and Oakdale. The city is seeking a meeting with the UP on this issue.
- Mayor St. Ores thanked the private businesses along the Highway 95 corridor who worked with the city to execute 99-year leases for the placement of park benches and waste receptacles on their property.

### **UNFINISHED BUSINESS**

Consider a resolution for a Cooperative Construction Agreement with the Minnesota Department of Transportation (MnDOT) for the St. Croix River Crossing project: Administrator Berg explained the changes made to the agreement that would allow the city to coordinate any change orders to the plan that would affect the city's maintenance responsibilities. He noted that anything beyond the scope of the proposed agreement would require City Council approval. Todd Clarkowski, MnDOT St. Croix Crossing project coordinator, stated MnDOT is agreeable to the amended language, and city staff recommended approval of the agreement.

Councilmember Hanson introduced the following resolution and moved its adoption:

**Resolution 12-22**

### **RESOLUTION APPROVING MINNESOTA DEPARTMENT OF TRANSPORTATION AGREEMENT NUMBER 01431**

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

Susan St. Ores – aye	Michele Hanson – aye
Dan Goldston – aye	Mark Ostertag – aye

It was moved by Councilmember Goldston and seconded by Councilmember Ostertag to authorize the City Administrator to act as the City's Authorized Representative for this Cooperative Construction Agreement. Motion carried 4-0.

Mr. Clarkowski provided an update on the St. Croix River Crossing Project, noting the project is on track for construction to begin next spring on the Minnesota roadway approach, including Highway 95 into Bayport. The bridge is scheduled for completion in 2016. MnDOT is working closely with Washington County on the realignment of Pickett Avenue and Point Road, as well as with the MSCWMO on the stormwater drainage ponds. He noted the Shoddy Mill buildings will be moved from Oak Park Heights to Stillwater between 10:00 p.m.-5:00 a.m. on November 15-16, and Highway 36 will be closed during the move. He reported repairs on the current lift bridge should be completed the first week of December.

## **NEW BUSINESS**

Consider appointment of a citizen representative to the Cable Commission: Staff recommended the appointment of Brian DeLisle to serve as Bayport's citizen representative on the Cable Commission.

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to appoint Brian DeLisle to serve as Bayport's citizen representative on the Central St. Croix Valley Joint Cable Commission. Motion carried 4-0.

Consider revisions to Appendix D – Fee Schedule of the Bayport City Code: Administrator Berg presented proposed changes to the city's fee schedule for 2013. Staff is proposing a new fee for the delivery/pick up of picnic tables, trash receptacles and barricades, to offset the rising fuel and manpower costs associated with this type of request. Bayport Community Action League (BCAL) events would be exempt from these fees due to the partnership agreement defined earlier this year between the BCAL and the city. He explained that the Service Availability Charge (SAC) fee to connect to the metropolitan wastewater system is set by the Metropolitan Council, and Mayor St. Ores indicated she would like the city to discuss these continually increasing fees with the Metropolitan Council. Discussion followed on how the new fees for additional picnic tables, barricades and trash receptacles were determined. Administrator Berg explained that staff wanted to propose a fair price, since the majority of the groups requesting these items are nonprofit organizations, while taking into consideration the city's labor, fuel and equipment costs. Police and Public Works staff would work with groups to determine the number of barricades needed for a particular event. Councilmember Hanson questioned the fees for ball field rentals, stating a desire to make sure there is adequate funding in the budget to maintain our city parks. Administrator Berg indicated he is working with the St. Croix Valley Athletic Organization and St. Croix Preparatory School on maintenance of Barker's Alps fields. Mayor St. Ores recommended tabling discussion on the 2013 fee schedule until after the November 19 budget workshop and asked staff to highlight fees that can be modified to assist the discussion at the workshop.

It was moved by Councilmember Hanson and seconded by Councilmember Ostertag to table this item to the December meeting. Motion carried 4-0.

Consider 2013 - 2015 labor agreement with Law Enforcement Labor Services, Inc. Local Public Employee Union #226: Administrator Berg reviewed the tentative three-year labor agreement negotiated with the four full-time Police Department employees. He stated a salary survey of police officer pay in Oak Park Heights and Stillwater indicated Bayport officers receive 15-20% less than officers in these neighboring communities, although Bayport contributes more for health insurance. Administrator Berg indicated the proposed 2013 budget includes a 3% cost of living (COLA) increase for employees, but that employees with family coverage would shoulder a higher cost toward their health insurance, resulting in a net COLA increase of 2%. He noted it has been the city's approach to align the city's two union contracts and non-union employees. Mayor St. Ores stated she would like to table approval of this expenditure item until after the budget workshop, noting that employee salaries compromise 70% of the budget. Discussion followed on the pros and cons of approving the agreement versus waiting until after discussion at the November 19 budget workshop.

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to discuss this item at the November 19, 2012 City Council budget workshop and table a vote on the agreement until the December meeting. Motion carried 4-0.

Consider authorization to prepare plans and specifications for well 3 and water main extension to existing air stripper, as discussed in the TCE Groundwater Report: Engineer Peters reviewed the recommended option for mitigating rising levels of TCE in well 3 by connecting the well to the air stripper near well 2, via a dedicated 8 inch water main. He explained the route and process to complete the connection, as well

as improvements needed at well 3. Authorization to prepare plans and specifications for the project is being sought at this time in order to provide a “shovel ready” project for consideration for possible state bond funding and low interest loans through the Public Facility Authority. The not-to-exceed cost for the design services is \$45,000.00, which would include a base bid for the required water main and well improvements and alternate bids for various well enhancement improvements. He stated the design fees were included in the total estimated project cost of \$482,000.00, as delineated in the feasibility study that was accepted at the last City Council meeting. Staff estimates it would cost an additional \$5,000.00 to have a contractor pull the existing pump at well 3 to investigate needed improvements. Funding for this expense would come from the 206 Water/Sewer Improvement Fund.

It was moved by Councilmember Ostertag and seconded by Councilmember Hanson to authorize Short, Elliott Hendrickson, Inc., to prepare plans and specifications for the TCE Water Main and Well Improvements Project, for a not-to-exceed cost of \$45,000.00, and direct staff to obtain quotes and pull the pump at well 3 to investigate the improvements needed. Motion carried 4-0.

Consider authorization to hire a lobbyist to secure state funding for TCE treatment/infrastructure improvements: Administrator Berg stated the city would be submitting a state bonding request for inclusion in the 2013-2014 legislative session for TCE treatment/infrastructure improvements. To assist with the process, staff solicited a request for proposal (RFP) for lobbyist services. Two proposals were received, with proposals of \$20,000.00 and \$40,000.00 submitted. Due to the cost, if approved, staff recommended a phased agreement for lobbyist services that would specify benchmarks that must be met before proceeding to the next phase of the agreement. The city used a lobbyist to secure \$1.5 million in state bonding for the Perro Creek Improvement Project. Staff recommended forming an ad hoc committee to conduct interviews and negotiate an agreement with a lobbyist. Discussion followed on the challenges of getting state bonding, the lack of other funding sources, the impending cost to update the city’s aging infrastructure, the pros and cons of using a lobbyist, and requesting a statement of work breaking out costs before a decision is made.

It was moved by Councilmember Hanson to direct the City Administrator to request a detailed statement of work from the two lobbyists who submitted an RFP for further discussion at the next meeting. Motion failed for lack of a second.

It was moved by Councilmember Hanson and seconded by Councilmember Ostertag to appoint the Mayor to assist the City Administrator with interviewing and securing detailed statements of work from the two lobbyists who submitted an RFP and table further discussion to the December meeting. Motion carried 4-0.

Consider proceeding with the removal of a private business sign on public property: Attorney Pratt summarized the litigation since 2008 between Group 41, the Bayport Marina Association, and the City of Bayport regarding the “Clyde’s” sign off 5<sup>th</sup> Avenue North, leading into the marina area. A survey revealed the sign is located within the city right-of-way, and the District Court determined Group 41 is the sole owner of the sign and the Marina owns the underlying property. Since it is a code violation for signs to be located within the city right-of-way, the two private parties were given direction on rectifying the code violation. Neither party has approached the city to correct the violation, and at this time, the city is seeking resolution. Three options for dealing with the code violation were reviewed. Staff recommended enforcement of the code and removal of the sign, and noted that Group 41’s lack of maintenance of the sign is also a violation of their Conditional Use Permit. If removal is approved, Group 41 will be notified the sign must be removed by November 30, 2012, or the city will proceed with removal. Councilmember Ostertag recommended pursuing salvage options for the sign.

It was moved by Councilmember Ostertag and seconded by Councilmember Goldston to direct staff to notify Group 41 that the city would be enforcing mitigation of the sign violation and to remove the sign by November 30, 2012. Motion carried 4-0.

Consider an agenda request from Mayor St. Ores to fund temporary repairs to the city's public boat launch: Engineer Peters reviewed the original construction of the boat ramp in 1996, utilizing 12 foot planks, and indicated the city is currently working with the Department of Natural Resources (DNR) for replacement of the deteriorating planks, possibly with 15 foot planks, which better meet the needs of today's vehicles. The new planks would be available next spring or early summer, and Mayor St. Ores requested consideration of temporary repairs to the launch, due to safety and maintenance issues. Engineering and Public Works staff believe the best option for a temporary fix would be the placement of larger rocks or rip-rap in the voids in the planks; however, this would require a permitting process by the U. S. Army Corps of Engineers (USACE). The permit approval process would extend into mid-December and may not allow for repairs until next spring. Permitting and materials costs for the temporary improvements are estimated at \$300.00, if city staff completes the repairs. Staff recommended the ramp be closed at this time, due to safety concerns, and that the city apply for the USACE permits for the temporary improvements and permanent plank replacement. Staff requested direction from councilmembers on the plank width size to pursue in the USACE permit. Administrator Berg estimated a cost of up to \$10,000.00 for 6' x 15' x 6-7" planks (\$6,200 for planks, plus hardware and freight). The DNR would supply standard 1' x 12' x 5" planks at no charge, or 5' x 12' x 5" planks at an aggregate cost of \$2,450.00, plus hardware and freight. Installation would be an additional cost. Mayor St. Ores stated she would like the ramp to remain open for fall fishing and take steps to secure permitting as soon as possible. Discussion followed on the cost benefits of a wider plank and the general consensus was to utilize the free planks offered by the DNR.

It was moved by Councilmember Hanson to direct the City Engineer to prepare plans and specifications for the replacement of the existing boat ramp utilizing 1' x 12' x 5" planks and take appropriate action for the temporary improvements to be completed as soon as possible. Discussion followed on the pros and cons of utilizing the 5' x 12' x 5" planks, and Engineer Peters stated he would determine estimated installation costs. Motion failed for lack of a second.

It was moved by Councilmember Hanson and seconded by Councilmember Ostertag to direct the City Engineer to prepare plans and specifications for the permanent replacement of the existing boat ramp planks, utilizing the City Engineer's recommendation on the best option for plank size, and secure permits for both the permanent and the temporary improvements, for a not-to-exceed cost of \$6,000.00. Motion carried 4-0.

Consider an agenda request from Mayor St. Ores to fund a winter satellite toilet for Lakeside Park: Mayor St. Ores requested funding to install a satellite toilet in Lakeside Park to accommodate winter users of the park and river in 2012. Funding for the remainder of the winter would be considered in the 2013 budget.

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to approve placement of a winter satellite toilet at the south end of Lakeside Park for the remainder of 2012, at a cost not to exceed \$200.00. Motion carried 4-0.

Consider a plan to address pet waste: In response to increased pet waste concerns in the Inspiration development and Barker's Alps Park, staff has considered options to address the issue. The city has dog waste bag dispensers at Barker's Alps and developed an informational handout on city pet regulations. Staff is proposing the use of plain clothed, part-time police officers to provide extra patrols in these areas to locate potential violators, identify unregistered pets, and issue criminal misdemeanor citations for

people who fail to clean up pet waste. The citation fine would be at least \$100.00, plus court and administrative costs. Staff estimates a cost of \$1,100.00 to provide the extra patrols three times per week, for the remainder of 2012, and approximately \$2,150.00 with limited enforcement in 2013. Staff recommended installing an additional pet waste dispenser at the top of the bluff at Barker's Alps, approving funds for part-time park patrols in 2012 and 2013, and approving a criminal misdemeanor fine. Prior to the meeting, Councilmember Carlson indicated her support for expending funds for the part-time officer patrols. Discussion followed on the effectiveness of ongoing education efforts, how the fines would be enforced and additional options/resources to mitigate the problem, including interdepartmental observation methods.

It was moved by Councilmember Ostertag and seconded by Councilmember Hanson to table action on this item and notify residents of the impending 2013 enforcement measures via the December city newsletter and 2013 pet license renewal information. He further moved that new/ revised fees for pet code enforcement, as well as expending funds for part-time patrols in 2013, be discussed at the November 19, 2012 budget workshop. Motion carried 4-0.

### **CITY COUNCIL ITEMS AND ANNOUNCEMENTS**

1. Councilmember Ostertag thanked volunteers, councilmembers and staff who participated in the public safety open house on October 31.
2. Councilmember Ostertag stated the Bayport Fire Department has joined forces with the Lakeview Hospital paramedics "Movember" team to raise funds and increase awareness of prostate cancer efforts. More information and a donation link will be posted on the city's website.
3. Mayor St. Ores encouraged residents to mark their calendars for Wednesday, December 5, for Lighting of the Green. More information can be found on the city's website.
4. Councilmember Ostertag reported that Santa Claus would be making an early morning visit to Bayport on Friday, November 23.

### **ADJOURNMENT**

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to adjourn the meeting at 9:45 p.m. Motion carried 4-0.

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City Administrator/Clerk