

CITY OF BAYPORT
BAYPORT CITY COUNCIL MEETING MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
APRIL 3, 2000
7:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Mayor Allen Schultz called the regular City Council Meeting of April 3, 2000 to order at 7:05 p.m. and asked the City Council, staff and audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members Present: Mayor Allen Schultz, Councilmembers Linda Newell, Jim Menard, and Sharon Ridgway. Councilmember Jim Kosmo arrived at 7:10 p.m.

Members Absent: None.

Others Present: Ken Hartung, City Administrator; Jim Lammers, City Attorney; and Barry Peters, Consulting City Engineer.

CONSENT AGENDA

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-30

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING CONSENT AGENDA ITEMS A, B, C AND D FROM THE APRIL 3, 2000
COUNCIL AGENDA

- A. Approve the minutes of the regular City Council Meeting of March 6, 2000.
- B. Approve bills as presented in the amount of \$210,878.22.
- C. Approve receipts as presented in the amount of \$113,905.87.
- D. Approve building/plumbing/heating permits issued during the month of March, 2000.

The foregoing Resolution was duly seconded by Councilmember Ridgway and upon roll call being taken thereon, the following voted via voice:

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

PUBLIC HEARINGS

Discuss a Proposed Adult Entertainment Ordinance

Mayor Allen Schultz opened the Public Hearing for the purpose of receiving public comment on the need for adoption of an Adult Entertainment Ordinance and asked the City Administrator to read the Notice of Hearing.

Ken Hartung, City Administrator, stated the Public Hearing Notice for the proposed Adult Entertainment Ordinance was published in the Stillwater Evening Gazette on March 16 and March 23, 2000. and posted in City Hall on February 18, 2000.

Ken Hartung stated the reason this item is on the Agenda tonight is because the Council is taking a proactive step in considering the need for an Adult Entertainment Ordinance. He noted the Supreme Court has indicated the City cannot prohibit adult entertainment within the City limits. However, he stated by considering and acting on an Adult Entertainment Ordinance, the City can control where those types of activities take place within the City.

City Attorney, Jim Lammers, stated in order for the City to consider adopting an Adult Entertainment Ordinance there is a specific process which the City Council must follow. He indicated those steps are:

1. City staff gathers studies conducted by other municipalities or organizations along with copies of Ordinances adopted by other municipalities related to sexually oriented businesses.
2. City Councilmembers must review studies conducted by other municipalities or organizations along with copies of Ordinances adopted by other municipalities related to sexually oriented businesses. The City Council must then relate their review of the studies and Ordinances to their Findings as they relate to sexually oriented businesses.
3. The City must hold a Public Hearing for the purpose of taking testimony from concerned citizens to determine a need for an Adult Entertainment Ordinance.
4. The City Council must adopt findings and conclusions of an adult entertainment study associated with sexually oriented businesses.
5. The City Council directs the City Attorney and City Administrator to construct an Adult Entertainment Ordinance consistent with the findings and conclusions of the adult entertainment study.

Mayor Allen Schultz opened the Public Hearing for public comment.

No one from the public commented on the proposal for an Adult Entertainment Ordinance.

Councilmember Jim Kosmo stated it is necessary for the City to be proactive in this area to enact an Adult Entertainment Ordinance which restricts activity of sexually

oriented businesses within the City of Bayport. He noted without this Ordinance, the City would be hard pressed to restrict their activity.

Jim Lammers stated he has prepared a draft Ordinance related to sexually oriented businesses for Councilmembers' review. He indicated some of the main elements of the draft Ordinance are:

1. Sexually oriented uses are permitted in the Industrial zoned district as a Conditional Use and those uses are to be located 1,000 feet from churches, schools and residential areas.
2. Sexually oriented businesses are permitted as an Accessory Use in the B-3 Central Business District. The sexually oriented accessory business has restrictions on the area that it can occupy. For example, it can occupy 10% of the floor area of any given place.

Jim Lammers indicated however, at this time there is no distance limitation from churches and schools on the sexually oriented permitted accessory uses in the B-3 area. He indicated the City Council may want to establish a distance similar to what it has for a liquor license, which requires those establishments to be located a minimum of 500 feet from churches and schools.

Moved by Councilmember Menard, seconded by Councilmember Newell, to close the public hearing related to receiving public comment on the need for adoption of an Adult Entertainment Ordinance.

Voting in favor: Councilmembers Newell, Menard, Schultz, Kosmo and Ridgway.

Voting against: None.

Absent: None.

Moved by Councilmember Kosmo, seconded by Councilmember Newell, to adopt the Findings and Conclusions of the adult entertainment study associated with sexually oriented businesses.

Voting in favor: Councilmembers Kosmo, Newell, Schultz, Ridgway and Menard.

Voting against: None.

Absent: None.

Moved by Councilmember Kosmo, seconded by Councilmember Newell, to direct the City Attorney and City Administrator to draft an Adult Entertainment Ordinance consistent with the City Council's findings and conclusions associated with the adult entertainment study.

Voting in favor: Councilmembers Kosmo, Menard, Schultz, Ridgway and Newell.

Voting against: None.

Absent: None.

Moved by Councilmember Kosmo, seconded by Councilmember Menard, to adopt a motion directing the City Attorney and City Administrator to draft an amendment to the City's Zoning Ordinance consistent with the adult entertainment use as proposed in the Adult Entertainment Ordinance.

Voting in favor: Councilmembers Kosmo, Menard, Schultz, Ridgway and Newell.

Voting against: None.

Absent: None.

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to establish a Public Hearing for Monday, May 1, 2000 for the purpose of considering adopting an Adult Entertainment Ordinance and an amendment to the City's Zoning Ordinance to permit adult entertainment uses in the I-1 Industrial and B-3 Central Business District zones within the City of Bayport.

Voting in favor: Councilmembers Newell, Kosmo, Schultz, Ridgway and Menard.

Voting against: None.

Absent: None.

Discuss proposed South Lakeside Drive Street and Utility Improvements

Mayor Allen Schultz opened the Public Hearing related to the South Lakeside Drive Street and Utility Improvements and asked the City Administrator to read the Notice of Public Hearing.

Ken Hartung, City Administrator, read the Notice of Public Hearing associated with the South Lakeside Drive Street and Utility Project and indicated the Notice was published in the Stillwater Evening Gazette on March 22 and March 29, 2000, posted in Bayport City Hall on March 21, 2000 and mailed to benefiting property owners on March 21, 2000. He stated the purpose of tonight's meeting is to give the public a chance to comment on the proposed project.

Ken Hartung stated at the City Council Meeting of November 1, 1999, the City Council received a request from Charlie Kaiser, 555 South Lakeside Drive, and Mark Gear, 535 South Lakeside Drive, for the City to consider paving the south end of Lakeside Drive. As a consequence of that request, he indicated the City Council authorized Short-Elliott-Hendrickson to prepare a feasibility study related to the paving of South Lakeside Drive. Since that time, he noted, Ronn Hechter has entered into a Purchase Agreement to acquire property at 520 and 560 South Lakeside Drive. He indicated Mr. Hechter is proposing to construct six townhome-style houses on the property. He noted Mr. Hechter's proposal would give the City additional right of way for reconstructing South Lakeside Drive. He indicated as a consequence of the new information, the City Council, at the meeting of March 6, 2000, adopted a Resolution authorizing Short-Elliott-Hendrickson to update the feasibility study on the reconstruction of South Lakeside Drive and establish a Public Hearing for this evening.

Barry Peters, the City's Consulting Engineer, stated he has completed an update of the South Lakeside Drive Utility and Street Improvement feasibility report. He noted the proposed project includes:

1. Sanitary sewer service.
 - a. Providing two private 6" PVC laterals to the west right of way of South Lakeside Drive to provide service to the McLuckie property.
 - b. Extend a 2" PVC force main from the dead end manhole to the Johnson property known as Hubb's Point.
2. Water service.
 - a. Extending two 6" DIP laterals to the west right of way to provide water service to the McLuckie property.
 - b. To provide water service to the Johnson (Hubb's Point) property by connecting to the existing 6" DIP water lateral and extend a 6" DIP lateral to the south terminating with a hydrant.

3. Street Improvements

a. Alternative One

Alternative One consists of a bituminous surface with concrete curb and gutter starting at the halfway point at 515 South Lakeside Drive and continuing to a cul de sac at the end of South Lakeside Drive.

b. Alternative Two

Alternative Two consists of asphalt material with curb and gutter starting at a halfway point at 515 South Lakeside Drive, stopping at approximately the property line of 535 and 555 South Lakeside Drive. At that point, curb and gutter would stop and asphalt material would be used to finish the rest of South Lakeside Drive including a cul de sac.

c. Alternative Three

Alternative Three would consist of an asphalt road starting at the halfway point of 515 South Lakeside Drive and stopping at the approximate property line of 525 and 555 South Lakeside Drive. From that point, the road and the cul de sac would be constructed of class 5 material.

Barry Peters then reviewed the City's assessment policy indicating sewer and water services are assessed to the benefiting property owners of the McLuckie and Johnson property at 100%. He noted road improvements are assessed to benefiting property owners at 50% and that the other 50% is paid for by the City. He indicated the total estimated cost of each alternative, including a 10% contingency and 35% administration, engineering and legal expenses are:

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1. Alternative One - \$81,156.00
2. Alternative Two - \$76,048.00
3. Alternative Three - \$71,623.00

Councilmember Ridgway asked Barry Peters what the elevation of the cul de sac at the end of South Lakeside Drive would be. Barry Peters stated the west side of the cul de sac would be at a level of 682 feet and the east side of the cul de sac would be approximately 684 - 686 feet. Barry Peters also stated he would recommend the City Council close off the east/west private easement road connecting South Lakeside Drive to the ice road.

Mayor Schultz stated he is not in favor of closing the east/west road. He noted it has been used by Bayport residents as long as he can remember and would like to see it remain open for Bayport residents' use.

Ronn Hechter, Developer of the McLuckie property, stated he is not opposed to leaving the road open as long as it is clearly marked as a dead end road and for local residents only.

Donald McLuckie, 520 South Lakeside Drive, stated the east/west road was never a City road. He stated he gave the former owners of Charlie Kaiser's property permission to drive across his property during the winter when it was sometimes impossible for them to access South Lakeside Drive.

Patrick Kelly, an Attorney with Bannigan & Kelly, stated he is representing Charles and Robin Kaiser. He stated he and Charlie Kaiser had an opportunity to meet with City staff on Wednesday of last week to review the project. He stated his client agrees with the cul de sac drainage offset, which allows the water to drain to the west rather than across his client's property. He also stated they agree with the Alternative Two road proposal. He indicated he is also of the understanding that Hubb's Point may be developed in the future as single family homes. He stated he and his client will be watching any development in the Hubb's Point area. He noted Charlie Kaiser endorses closing off the east/west private access which connects South Lakeside Drive to the ice road. Mr. Kelly went on to say he understands the proposed assessment for the South Lakeside Drive Street and Utility Improvements is based on a per unit basis of 7,000 square feet. He indicated the Council may want to review the assessment policy to determine if it is fair and equitable.

Charlie Kaiser, 555 South Lakeside Drive, stated he is advocating closing off the east/west road which connects South Lakeside Drive to Hubb's Point. He stated the City is to construct a cul de sac which is, in effect, a dead end road. He stated the road should be dead ended and not provide a connection to the ice road.

Phylliss Nelson, 515 South Lakeside Drive, stated she doesn't need curb and gutter and doesn't need the new road. She stated she is satisfied the way the road is now. She sees the road as more benefit to Charlie Kaiser, Mark Gear and the new development.

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Mark Gear, 535 South Lakeside Drive, stated he would like to see the private easement connecting South Lakeside Drive to the ice road closed.

Brad Carmichael, 505 South Lakeside Drive, stated he has heard discussion this evening regarding the possibility of two residential homes being located at Hubb's Point. He stated with South Lakeside being proposed at an elevation of between 682 feet and 684 feet, he is wondering if the City can support fire suppression services during a flood.

The City also received correspondence from Tracey A. Galowitz Johnson and Scott Johnson, 710 West Linden, Stillwater, owner of the Hubb's Point property, stating that they are reserving their right to contest the amount of the assessment proposed for Hubb's Point.

Moved by Councilmember Kosmo, seconded by Councilmember Newell, to close the Public Hearing related to South Lakeside Drive Street and Utility Improvements.

Voting in favor: Councilmembers Newell, Menard, Ridgway, Kosmo and Schultz.

Voting against: None.

Absent: None.

Councilmember Newell stated she has reviewed the feasibility report and supports Alternative One which has the South Lakeside Drive improved with bituminous asphalt and curb and gutter. She stated while concrete curb and gutter is a little more expensive, it also guarantees that the edge of the asphalt will be retained. She indicated the approximate difference between complete concrete curb and gutter and an asphalt berm is \$5,000.00.

Councilmember Ridgway asked if an asphalt berm edging would be adequate.

Mel Horak, Bayport's Public Works Superintendent, stated his preference would be for the Council to have a concrete curb and gutter to retain the edge of the asphalt.

Councilmember Ridgway asked if the cul de sac would be subject to flooding.

Barry Peters, Consulting City Engineer, stated the cul de sac, at an elevation of 682 to 684 feet would be subject to periodic flooding.

Councilmember Newell introduced the following resolution and moved its adoption:

RES. 00-31

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING THE FEASIBILITY REPORT AND ORDERING THE PLANS AND
SPECIFICATIONS FOR ALTERNATIVE ONE AND ORDERING THE SOUTH
LAKESIDE DRIVE STREET AND UTILITY IMPROVEMENT PROJECT.**

Motion for adopting the foregoing resolution was duly seconded by Councilmember Menard, and upon roll call being taken thereon, the following voted via voice:

Jim Menard - aye
Jim Kosmo - aye
Allen Schultz - aye

Linda Newell - aye
Sharon Ridgway - aye

PETITIONS

Councilmember Jim Kosmo

Councilmember Jim Kosmo read a statement regarding traffic safety as it relates to the City of Bayport. He noted since the accident that injured Christine Ackerman and her young daughters, Rachel and Sara, on November 29, 1999, Bayport Police Department has intensified its enforcement. Councilmember Kosmo reminded Bayport residents that every street in Bayport, including Highway 95 is a residential road and that the City will absolutely not tolerate traffic violations. He stated anyone who disagrees with the enforcement of traffic laws in Bayport can ask the legislature to change the laws, talk to the Ackerman family or speak to the City Council. He stated, however, do not give any grief to the police because they are under direct orders from the City Council to strictly enforce traffic laws. Councilmember Kosmo also stated that since the Ackerman accident, the City, school officials, local business leaders and the Minnesota Department of Transportation have met to explore other ways to improve safety. He stated the state conducted an extensive study of accident history, speeds and traffic counts on Highway 95. He indicated surprisingly, statistics taught us that traffic signals and signs often have exactly the opposite result from what is desired and frequently, they actually create a dangerous, false sense of security. In Stillwater, he indicated, for example there are more accidents every year at each controlled intersection than Bayport has had at Highway 95 intersections in 10 years. However, he indicated, if you talk to Eric Ackerman he'll tell you, vigorously, that statistics don't mean a thing if it happens to your family and of course, he is absolutely right. He indicated traffic safety is certainly not unique to Bayport; cities throughout the country are struggling for answers. He noted after examining volumes of data, it is clear to him that the City needs to concentrate on the four E's; Education, Enforcement, Engineering and Environmental Design.

Police Chief John Gannaway

Police Chief John Gannaway stated it has recently been brought to his attention that there are some concerns with the traffic enforcement by Bayport Police Department. He noted the Police Department is doing nothing different than it has done in the past except in two areas. Those are:

1. The Police Department has lowered the threshold level at which it will issue speeding tickets. The threshold level has been lowered in an effort to increase safety in the City of Bayport.
2. The Police Department has also used a new method for enforcing crosswalk violations. The method employs a Police Department employee in plain clothes who serves as a pedestrian at key intersections in the City of Bayport. The police employee gives an oncoming vehicle ample opportunity, one to two city blocks, to be able to stop. If the vehicle enters the crosswalk while the police

employee is still walking the crosswalk, the vehicle driver is tagged. He indicated in a period of approximately two hours, the City has issued 18 citations. He noted he is hoping through increased education that pedestrians and vehicle drivers will become more aware of the pedestrian law. He noted the pedestrian also has a responsibility not to step off into the pedestrian walkway if the car does not have ample time to stop.

Chief Gannaway also outlined programs which the Police Department will be conducting this year. He noted some of these programs are repeats and some are new:

1. Safety Camp is scheduled for June 20 - 21, 2000. It will again be a joint effort with the Oak Park Heights Police Department. It takes place at Lakeside Park this year and the Police Department is anticipating 90 - 100 area children.
2. National Night Out is scheduled for August 1, 2000. The Police Department is better organized this year and hopes to have more attractions and a similar turnout and success as last year.
3. Officer Logan is researching crimes against elderly, which would entail education and training for elderly residents with regards to crime and issues that would effect them. This involves building coalitions and partnerships with local senior citizen groups.
4. The Police Department is in the beginning stages of putting together a new resident packet which would involve a member of the Police Department hand delivering a packet to a new Bayport resident explaining programs and services the Bayport Police Department provides.
5. The Police Department hopes to have another episode produced of the Bayport Beat, which is a video presentation of the services, duties and programs provided by the Bayport Police Department.

Police Chief Gannaway stated this is the first job he has had where he is really excited about coming to work every day. He indicated the Bayport community is made up of friendly people who are concerned about the community and their neighbors. He also would like to take this opportunity to thank the Bayport Police Officers for their dedicated service to the community.

Councilmember Linda Newell stated she believes it would be unfair for the Police Department to ticket a driver for a pedestrian crosswalk violation if the pedestrian is very close to the curb on the driver's side of the street.

Ron Van Zee, 460 South 5th Street stated he is in complete agreement with the Police Department strictly enforcing the pedestrian laws. He indicated on a number of occasions he has waited for a pedestrian in a crosswalk only to have a car pass him on the right hand side. He stated this definitely could put a pedestrian in peril even if the pedestrian is almost completely out of the crosswalk into the curb area.

CITY ATTORNEY

City Attorney Jim Lammers stated he has nothing at this point of the Agenda.

CITY ENGINEER

Barry Peters, Consulting City Engineer, stated he has nothing at this point of the Council Agenda.

DEPARTMENT HEADS

Ken Hartung stated he had no comments regarding department operations unless City Councilmembers had questions.

COUNCIL LIAISON REPORTS

St. Croix Valley Joint Cable Communications Commission

Councilmember Sharon Ridgway stated that the last Cable Commission Meeting, the following items were discussed:

1. The Cable Commission Newsletter is being worked on so it can be distributed to member cities.
2. The Cable Commission is still working with the lower valley communities regarding payment for services on the four public channels.
3. The Cable Commission has hired a part-time person to conduct cable commission activities at the high school.

Councilmember Ridgway stated the next Cable Commission meeting has been scheduled for April 19, 2000.

OLD BUSINESS

Ken Hartung, City Administrator, stated no Old Business has been scheduled for this evening's meeting.

NEW BUSINESS

**Discuss an Application for Conditional Use Permit,
Bluffland Shoreland Ordinance and Zoning Ordinance Variances
to Permit the Construction of Six Townhome Units on
Properties Addressed at 520 and 560 South Lakeside Drive,
Case Numbers 00-03 CUP and 00-04 V**

Ken Hartung, City Administrator, stated the City has received an application from Ronn Hechter requesting that the City hold a Public Hearing related to a development proposal for 520 and 560 South Lakeside Drive. The specifics of the request are:

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1. Consider a Conditional Use Permit to allow construction of six townhome style units on the property.
2. Consider a request for an impervious surface variance from the Bluffland Shoreland Management Ordinance.
3. Consider a request for a minimum fill height variance from the City's Floodplain Ordinance.
4. Consider a building setback variance from the City's Zoning Ordinance.

Ken Hartung stated the City has received an application from Ronn Hechter for the City to consider a Conditional Use Permit and Variances to permit the construction of six townhome style units on the property. He noted Mr. Hechter is proposing a cluster townhome style development on the property. He indicated the City's Bluffland Shoreland Management Ordinance normally requires 20,000 square feet of land per residential structure. However, he stated under the cluster development proposal in the City's Bluffland Shoreland Management Ordinance, if the property owner agrees to preserve agricultural open space, woods, scenic views, wetlands, or other features of a natural environment in its present condition, the property owner can propose a cluster home development with a density of 1.5 units per 20,000 square feet of land area. He stated based on the Bluffland Shoreland Management Ordinance, the calculations for Mr. Hechter's total units are as follows:

a) 90,507 Sq. Ft./20,000 Sq. Ft. =	4.52 Units
b) Section 703.01(2) Cluster Development Multiplier 1.5	X 1.5
c) Total Number of Units Allowed	6.79 Units

Ken Hartung stated Mr. Hechter has provided the City with a Certificate of Survey which was prepared by Barry Stack, a Surveyor registered with the State of Minnesota. Ken Hartung then went on to review drawings of the townhome proposal which included:

- 1) A layout of the townhomes proposed for the property.
- 2) A grading, drainage, erosion control, utility and conservation area plan.
- 3) A landscaping plan.
- 4) Elevation and floor plan drawings.

Ken Hartung went on to state City Ordinances which must be reviewed for construction of the six townhome units are:

- 1) The City of Bayport Zoning Ordinance.
- 2) The City of Bayport Bluffland Shoreland Management Ordinance.
- 3) The City of Bayport Floodplain Ordinance.

4) The City of Bayport Stormwater Management Ordinance.

Ken Hartung reviewed the Zoning Ordinance issues associated with the proposed townhome development as follows:

1) Zoning Ordinance Section 601.05(5)(e)(18) Residential Townhomes Permitted as a Conditional Use.

The properties located at 520 and 560 South Lakeside Drive are zoned R-4 Single Family Urban District. Mr. Hechter is proposing to construct six townhome style units on these properties. This section of the Zoning Ordinance specifies that townhomes are permitted as a conditional use in the R-4 Single Family Urban District.

Zoning Ordinance Section 505 states: "The governing body may grant a Conditional Use Permit in any district provided a proposed use is listed as a conditional use in the zoning district and upon finding that:

a) Conditions as Detailed in the Zoning Ordinance Exist.

Zoning Ordinance Section 601.01(5)(e)(18) specifies that townhomes are permitted in the R-4 Single Family Urban District as a conditional use. Therefore, certain conditions as outlined in the City's Zoning Ordinance exist which permit townhomes in the R-4 Single Family Urban District with a Conditional Use Permit.

b) The proposed six townhome development conforms to the Comprehensive Land Use of the community.

The City's Comprehensive Plan dated November 6, 1996 identifies the City's land use plan on page 52. The City's Comprehensive Land Use Plan identifies property located at 520 and 560 South Lakeside Drive as low density residential, which permits four or less residential units per acre. Mr. Hechter's cluster development includes 90,507 square feet, which is equal to two acres. At a maximum of four units per acre, Mr. Hechter could construct eight townhome units and comply with the Comprehensive Plan. Mr. Hechter is proposing to construct six townhome units which is consistent with the City's Comprehensive Plan maximum residential density.

c) The proposed development of six townhome units is compatible with the existing neighborhood.

The City's Zoning Ordinance specifies that townhomes are permitted by Conditional Use Permit in the R-4 Single Family Urban District. The properties to the north, east, west and south are also zoned R-4 Single Family Urban District. The existing uses include:

1) Single family residential homes constructed on the east side of South Lakeside Drive.

- 2) A single family home is located directly north of the properties.
- 3) Twelve townhome units are constructed north of the properties.
- 4) Waterford on the St. Croix Condominiums are located west of the properties.
- 5) An undeveloped area is located to the south.

Based on the existing residential uses surrounding the properties and comments made at the Public Hearing, the City Council will need to determine whether the townhomes are compatible with the existing neighborhood.

- d) The proposed six townhome residential style units meets conditions and standards adopted by the community not incorporated in the Ordinance.

City staff is unaware of any conditions or standards which have been adopted by the community that are not incorporated in the City's Zoning Ordinance.

- 2) Zoning Ordinance Section 601.01(5)(f)(8) Minimum Front Yard Setback and Zoning Ordinance Section 601.01 (5)(f)(9) Minimum Rear Yard Setback.

These sections of the City's Zoning Ordinance specifies a minimum rear yard setback and minimum front yard setback for residential structures is 30 feet. Mr. Hechter is proposing a cluster townhome development which has spacings between the townhomes of 44 feet and 56 feet. Mr. Hechter has positioned the townhomes closer than 60 feet apart because of the sudden slopes on the south end of the property which prohibits him to fill or develop at an elevation lower than 682 feet. Consequently, in order for Mr. Hechter to be able to build the six townhomes which are permitted under the Comprehensive Plan and City of Bayport Bluffland Shoreland Management Ordinance, he has positioned the townhomes closer together than the 60 feet required by the Ordinance. Mr. Hechter is requesting the City consider granting a rear yard setback variance of 8 feet and a front yard setback variance of 8 feet from the Zoning Ordinance requirement of 30 feet for rear and front yard setbacks, providing a rear and front yard setback of 22 feet.

Ken Hartung summarized the Zoning Ordinance criteria associated with the townhome style unit proposal by using the following table:

**Summary Of Zoning Ordinance Criteria
 Townhouse-Style Unit Proposal
 520 And 560 South Lakeside Drive**

Zoning Ordinance Section	Required Criteria	Proposed Criteria	Conditional Use Permit/ Variance
ZO 601.05 (5)(e)(18) R-4 Residential Townhomes	Conditional Use Permit	Conditional Use Permit	Conditional Use Permit

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Zoning Ordinance Section	Required Criteria	Proposed Criteria	Conditional Use Permit/ Variance
ZO 601.01 (5)(f)(2) Townhome Lot Size	Min. 6000 Sq. Ft.	15,084 Sq. Ft.	None
ZO 601.01 (5)(f)(3) Townhome Floor Area	Min. 800 Sq. Ft.	1,620 Sq. Ft.	None
ZO 601.01 (5)(f)(4) Min. Lot Width	75 Ft.	130 Ft.	None
ZO 601.01 (5)(f)(5) Min. Lot Depth	130 Ft.	148 Ft.	None
ZO 601.01 (5)(f)(6) Min. Structure Lot Coverage	35%; 31.677 Sq. Ft.	11.4%; 10,344 Sq. Ft.	None
ZO 601.01 (5)(f)(7)(a) Maximum Height	35 Ft.	31Ft.	None
ZO 601.01 (5)(f)(8) Min. Front yard Setback	30 Ft.	22 Ft.	8 Ft. Variance
ZO 601.01 (5)(f)(9) Min. Rear Yard Setback	30 Ft.	22 Ft.	8 Ft. Variance
ZO 601.01 (5)(f)(10)(a) Max. Sideyard Setback From Street	20 Ft.	20 Ft.	None
ZO 601.01 (5)(f)(10)(b) Min. Sideyard Setback from Interior Lot Line	10 ft.	20 Ft.	None

Ken Hartung indicated the property is also in an area controlled by the City's Bluffland Shoreland Management Ordinance. He noted the specific Ordinance sections applicable for constructions of six townhome style residential structures associated with these properties as follows:

1) Bluffland Shoreland Management Ordinance 703.01(2) Cluster Development

This section of the Bluffland Shoreland Ordinance specifies that a development which places dwelling units into compact groupings may be allowed when the proposed clustering allows a better means of preserving agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment, than would be provided by a traditional subdivision development. Under the cluster development, Mr. Hechter is allowed to have 1.5 units per 20,000 square feet. Mr. Hechter has 90,000 square feet, which equals 6.7 units. Mr. Hechter is proposing 6 units.

2) Bluffland Shoreland Management Ordinance Section 402.01(9) Maximum Impervious Surface Area.

This section of the Bluffland Shoreland Management Ordinance specifies the maximum impervious surface area permitted on residential lots is 20%. Mr. Hechter has a total lot area of 90,507 square feet. Twenty percent of 90,507 square feet is equal to 18,101 square feet. Mr. Hechter's development is unique because the

properties he is proposing to develop also include an existing public road. The City has a roadway and utility easement across the east side of the property at 520 and 560 South Lakeside Drive. However, unlike other roads within the City of Bayport, the City does not own the land on which South Lakeside Drive was constructed and utilities installed. The City has an easement for South Lakeside Drive but the property under the road is owned by Ronn Hechter. Consequently, the public roads' impervious surface is also calculated as part of the impervious surface for the development. Mr. Hechter's proposed development with the existing road has a total impervious surface area of 23,401 square feet, which exceeds the permitted impervious surface area of 18,101 by 5,300 square feet. Additionally, the Council has recently decided to reconstruct South Lakeside Drive and install a cul de sac as required by the City's subdivision Ordinance, with a total impervious surface area of 30,726 square feet, which is 12,625 square feet above the maximum impervious surface area of 18,101 square feet. The City's improved street has an impervious surface area of 12,651 square feet. Without the City's public street impervious surface, Mr. Hechter's proposal would have an impervious surface area of 18,075 square feet, which is 26 feet under the maximum impervious surface area.

Ken Hartung summarized the Bluffland Shoreland Management Ordinance criteria for the six townhomes by reviewing the table below:

**Summary of Bluffland Shoreland Management Ordinance Criteria
 Six Townhome-Style Unit Proposal
 520 and 560 South Lakeside Drive**

Bluffland Shoreland Ordinance Section	Required Criteria	Proposed Criteria	Variance
703.01(2) Cluster Development; 90,507	6.8 units	6 units	None
402.01(1) Minimum Lot Size	20,000 Sq. Ft.	Section 703.01 waives requirement	None
402.01(2) Minimum Lot Width	100 Ft.	Section 703.01 waives requirement	None
402.01(8) Maximum Height	35 Ft.	26 Ft.	None
402.01(9) Maximum Impervious Surface			
A. Without Public Road	90,507 x 20% = 18,101 Sq. Ft.	19.97% = 18,075 Sq. Ft.	None
B. With Existing Public Road	90,507 x 20% = 18,101 Sq. Ft.	25.85% = 23,401 Sq. Ft.	5,300 Sq. Ft.
C. With New Public Road	90,507 x 20% = 18,101 Sq. Ft.	33.95% = 30,726 Sq. Ft.	12,625 Sq. Ft.
503.01 Site Preservation In Urban Areas	No tree cutting within 100 Ft. of 675 Ft.	120 Ft.	None
503.04 Grading and Filling	Grading and Filling permit not required for structures	Grading and filling for structures	None
802 MN DNR Certification	MN DNR Approving	Pending	

Ken Hartung reviewed the applicable sections of the Floodplain Management Ordinance as follows:

1) Floodplain Management Ordinance Section 402.01 Minimum Fill Height.

This section of the Floodplain Management Ordinance specifies that the finished fill elevation for all structures shall be no lower than one foot below the regulatory flood protection elevation of 693 feet and that that fill shall extend at that elevation for at least 15 feet beyond the outside limits of the erected structure. Mr. Hechter's plan indicates that he will be extending fill at an elevation of 692 feet for approximately 15 feet from the residential structures. However, because of the slopes on the west side of the properties, fill drops off to an elevation of 686 feet out from the residential structure units numbers 3 and 5. Consequently, Mr. Hechter is requesting the City Council approve a variance permitting the fill to start at an elevation of 692 feet on the west side of units 3 and 5 and end up at an elevation of 686 feet 15 feet west of units 3 and 5.

Ken Hartung summarized the Floodplain Management Ordinance criteria associated with the townhome development with the use of the following table:

**Summary of Floodplain Management Ordinance Criteria
 Six Townhome-Style Unit Proposal
 520 and 560 South Lakeside Drive**

Floodplain Management Ordinance Section	Required Criteria	Proposed Criteria	Variance
401 Permitted Use	Single Family Townhomes	Townhouses	None
402.01(1) Minimum Structure Elevation	693 Feet	693 Feet	None
402.01 Minimum Fill Weight 15' from Structure	692 Feet	686 Feet	6 Foot Variance
Section 402.03 Fill Material	Fill permitted to elevate structure	Fill used elevate structure	None
Section 404.04 Erosion Control	Erosion Control Plan not required	Erosion Control Plan submitted	None

Ken Hartung stated the Bayport Planning Commission held a Public Hearing on March 13, 2000 related to the Conditional Use Permit and Variances required to permit construction of six townhome units on properties addressed at 520 and 560 South Lakeside Drive. During the Public Hearing there were a number of residents who expressed concern or objection to the proposed townhome development. Ken Hartung indicated copies of the Planning Commission Minutes were provided to Councilmembers as attachments to the Council Letter. He indicated following Planning Commission Members' discussion, the Planning Commission unanimously adopted the following motions:

1) Conditional Use Permit Recommended Approval

Adopted a motion recommending the City Council approve a Conditional Use Permit to allow construction of six townhome style units at 520 and 560 South Lakeside Drive and further finds that the proposal for the townhome development at said addresses meets the Conditional Use Permit criteria specified in Zoning Ordinance Section 505.01 that:

- A) Certain conditions as specified in the Zoning Ordinance permit townhome developments in the R-4 Single Family Urban District with a Conditional Use Permit;
- B) That the proposed six townhome development is consistent with the City of Bayport Comprehensive Plan dated November 6, 1996;
- C) That the proposed six townhome development is compatible with the existing neighborhood;
- D) That there are no conditions or standards which have been adopted by the community which are not incorporated into the City's Zoning Ordinance.

2) Zoning Ordinance Variances

- A) Adopted a motion recommending City Council approve a variance from Zoning Ordinance Section 601.01(5)(f)(8) granting a front yard setback variance of eight feet from the Zoning Ordinance required setback of 30 feet permitting the townhomes to be constructed with a 22 foot front yard setback.
- B) Adopted a motion recommending the City Council approve a variance from Zoning Ordinance Section 601.01(5)(f)(9) granting a rear yard setback variance of eight feet from the Zoning Ordinance required setback of 30 feet permitting the townhomes to be constructed with a rear yard setback of 22 feet.

3) Bluffland Shoreland Management Ordinance Variance

Adopt a motion recommending the City Council approve a variance from Bluffland Shoreland Management Ordinance Section 402.01(9) granting an impervious surface variance consistent with reconstruction of South Lake Street as determined by the City Council and that such variance shall be granted with the following conditions:

- A) The front doors of the townhome development shall be located on the north and south sides of the townhomes.

The developer has changed his proposal to locate the front doors on the north and south sides of the townhome units.

- B) The final site plan shall be submitted to the City Council which shall locate a common road for Units 3, 4, 5 and 6 and a single common road for Units 1 and 2.

The developer has changed his proposal to conform with the Planning Commission's request.

- C) A floor plan shall be submitted to the City Council for their review prior to the City Council Meeting of April 3, 2000.

The developer has submitted a floor plan of the townhome development.

- D) East elevation shall be presented to permit the Council and single family residential neighbors to review the appearance of the townhome east elevation.

The developer has submitted a front and east elevation drawing of the townhomes.

4) Floodplain Variance

Adopted a motion recommending the City Council approve a variance from Floodplain Management Ordinance Section 401.01 granting a minimum fill height variance of six feet from the requirement that the fill extend from the residential unit at an elevation of 692 feet, 15 feet from the structure to permit fill at an elevation of 686 feet extending west 15 feet out from townhome units 3 and 5.

Councilmember Linda Newell stated she likes the additional landscaping the developer has proposed on the new landscaping proposal since its been forwarded on from the Planning Commission. However, she stated she would like to see white pines planted in some of the areas.

Patrick Kelly, of Bannigan & Kelly, representing Charlie and Robin Kaiser, indicated the Council is considering a number of variances associated with this project this evening. He reminded City Councilmembers that there are specific statutory requirements that must be met prior to the City Council granting variances. He indicated the statute requires undue hardship as the criteria which must be met to grant a variance. He indicated economic reasons alone cannot be classified as an undue hardship. He also indicated that the City Council may want to look at the City's Comprehensive Plan page 39, which has a section under the guiding principles of the Comprehensive Plan requiring the City to promote environmental stewardship, and page 47, on the overall land use concept and low density residential guidelines specified in the City's Comprehensive Plan. Mr. Kelly also stated that he things the white pine planting suggestion by Councilmember Newell is excellent.

Brad Carmichael, 505 South Lakeside Drive, stated he is not in favor of the townhome development for the following reasons:

- 1) He believes the townhome development, in terms of size and scale and in particular, height of the townhomes does not match the existing neighborhood.

- 2) The orientation of the townhome developments is also not conducive to the neighborhood. The orientation of the townhomes should be facing South Lakeside Drive. Rather, the orientation is facing north and south with the side of the building facing Lakeside Drive.
- 3) The minimum fill variance is being granted to accommodate the six townhome units. Fewer townhome units would not require a minimum fill variance.
- 4) The townhome units look like a big apartment complex.
- 5) The townhome units to the north are 1,500 square feet compared to the 1,620 square feet and the 1,776 square feet proposed for these units.

Gerri Stesniak, 506 South Lakeside Drive, stated the unit facing her property will have a driveway directly south of her property line. She stated the roadway will serve as access to two family units which will double the traffic on the south side of her property. She does not agree that the townhome units conform with the neighborhood. She also stated the entry doors should be facing South Lakeside Drive and not north and south. She stated the townhome proposal of six units is too many homes for this area.

Councilmember Newell stated she is in favor of introducing a motion which would approve the Conditional Use Permit but asked the City Administrator to review all the conditions associated with the Conditional Use Permit.

Ken Hartung read conditions A through F, which are a part of the Conditional Use Permit.

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to approve the Conditional Use Permit for Ronn Hechter, Case No. 00-03 CUP for properties addressed at 520 and 560 South Lakeside Drive contingent upon the following:

FINDINGS OF FACT:

WHEREAS: Ronn Hechter is the owner of property described in the legal description above, which is zoned R-4 Single Family Urban District; and,

WHEREAS: The land to the north, south, east and west is zoned R-4 Single Family Urban District; and,

WHEREAS: Single family residential homes exist on the north and east side of the property; and,

WHEREAS: Waterford on the St. Croix Condominiums are located west of the property; and,

WHEREAS: Twelve townhomes are located directly north of the property; and,

WHEREAS: Zoning Ordinance Section 601.01(5)(e)(18) permits townhomes as a Conditional Use in the R-4 Single Family Urban District; and,

WHEREAS: Ronn Hechter is proposing to construct six townhome style residential units on property located at 520 and 560 South Lakeside Drive; and,

WHEREAS: Zoning Ordinance Section 505.01 states that the governing body may grant a Conditional Use Permit in any district provided the proposed use is designated in Section 6 of the City's Zoning Ordinance as a Conditional Use for the district upon finding that:

1. Certain conditions, as detailed in the Zoning Ordinance exist.
2. The use or development conforms to the Comprehensive Land Use Plan of the community.
3. The proposed use is compatible with the existing neighborhood.
4. The proposed use meets conditions or standards adopted by the community not incorporated in this ordinance; and,

WHEREAS: The Bayport Planning Commission held a Public Hearing related to the Conditional Use Permit for the six townhome development proposal for the property described in the legal description above on March 13, 2000; and,

WHEREAS: Following the Public Hearing on March 13, 2000, the Planning Commission unanimously adopted a motion recommending the City Council approve the Conditional Use Permit to allow construction of six townhome units at 520 and 560 South Lakeside Drive and further finds that the proposal for the townhome development at said addresses meets the Conditional Use Permit criteria specified in Zoning Ordinance Section 501.01 that:

- A. Certain conditions as specified in the Zoning Ordinance permit townhome developments in the R-4 Single Family Urban District with a Conditional Use Permit.
- B. That the proposed townhome development is consistent with the City of Bayport's Comprehensive Plan dated November 6, 1996.
- C. That the proposed six townhome development is compatible with the existing neighborhood.
- D. That there are no conditions or standards which have been adopted by the community which are not incorporated into the City's Zoning Ordinance; and,

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WHEREAS: On April 3, 2000, at 7:00 p.m., the City Council considered the six townhome development proposal for 520 and 560 South Lakeside Drive and took public comment regarding the townhome development proposal; and,

WHEREAS: Following public comment and Council discussion, the City Council has determined that the construction of six residential townhomes at the property described in the legal description at the beginning of this document meets the Conditional Use Permit criteria specified in Zoning Ordinance Section 505.01 that:

- A. Certain conditions as specified in the Zoning Ordinance permit townhome developments in the R-4 Single Family Urban District with a Conditional Use Permit.
- B. That the proposed townhome development is consistent with the City of Bayport's Comprehensive Plan dated November 6, 1996.
- C. That the proposed six townhome development is compatible with the existing neighborhood.
- D. That there are no conditions or standards which have been adopted by the community which are not incorporated into the City's Zoning Ordinance; and,

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Approve a Conditional Use Permit for six townhome style residential units to be constructed on said lots described in the legal description in the beginning of this document contingent upon the following:
 - a) The developer shall install City water to the six townhome development and that the City water shall be installed as per the City Engineer's specifications and furthermore, developer shall pay all cost associated with the installation of the City water to the townhome development.
 - b) The developer shall install City sewer to the six townhome development and that such sewer service shall be installed as per the City Engineer's specifications and furthermore, the developer agrees to pay all costs associated with the sanitary sewer installation.
 - c) The developer agrees to enter into an agreement with the City of Bayport and such agreement shall specify that the developer will pay for all improvements associated with the six townhome development.

- d) The developer agrees to post a bond or letter of credit equal to an amount of 125% of the total cost of said improvements as estimated by the City Engineer.
- e) The developer agrees to furnish the City a Certificate of Elevation for each residential unit, certifying each structure meets the minimum elevation requirements specified in the City's Floodplain Ordinance.
- f) Access to the townhome units shall be from South Lakeside Drive. No access shall be permitted from South Main Street or from the ice road.

Voting in favor: Councilmembers Newell, Kosmo, Ridgway, Menard and Schultz.

Voting against: None.

Absent: None.

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to approve Variance Certificate No. 00-04 V for Ronn Hechter for property located at 520 and 560 South Lakeside Drive.

WHEREAS: Ronn Hechter is the owner of property described above, which is zoned R-4 Single Family Urban District; and,

WHEREAS: The land to the north, south, east and west is zoned R-4 Single Family Urban District; and,

WHEREAS: Single family residential homes exist on the north and east side of the property; and,

WHEREAS: Waterford-on-the-St. Croix Condominiums are located west of the property; and,

WHEREAS: Twelve townhomes are located directly north of the property; and,

WHEREAS: The property is located in an area which has land use control regulations established by the City of Bayport Zoning Ordinance, the City of Bayport Bluffland/Shoreland Ordinance, the City of Bayport Floodplain Ordinance and the City of Bayport Stormwater Management Ordinance; and,

WHEREAS: Ronn Hechter is proposing to construct six townhome style residential units on property at 520 and 560 South Lakeside Drive; and,

WHEREAS: Zoning Ordinance Section 601.01(5)(e)(18) permits townhomes as a conditional use in the R-4 Single Family Urban District; and,

- WHEREAS: Bluffland/Shoreland Management Ordinance Section 703.01(2) permits Mr. Hechter to cluster residential units in an area controlled by the Bluffland/Shoreland Management Ordinance provided Mr. Hechter preserves agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment; and,
- WHEREAS: Mr. Hechter has set aside a significant section of the southwest portion of his property as a conservation easement to be maintained in its natural condition; and,
- WHEREAS: Using the cluster development concept as outlined in the Bluffland/Shoreland Management Ordinance Section 703.01 permits Mr. Hechter to construct six residential units on property located at 520 and 560 South Lakeside Drive; and,
- WHEREAS: Mr. Hechter is proposing to construct six residential units at 520 and 560 South Lakeside Drive which meets the criteria specified in the Bluffland/Shoreland Management Ordinance Cluster Development Section 703.01(2); and,
- WHEREAS: The City's Comprehensive Land Use Plan adopted on November 6, 1996 and illustrated on page 52, specifies the property at 520 and 560 South Lakeside Drive as low density residential permitting one to four units per acre; and,
- WHEREAS: Mr. Hechter's property is 90,500 square feet, equal to approximately two acres and is permitted to have up to eight residential units based on the City's November, 1996 Comprehensive Plan Land Use map on page 52; and,
- WHEREAS: Bluffland/Shoreland Management Ordinance Section 703.01 waives all of the Ordinance requirements with the exception of height and setbacks from bluffline and normal high water mark for a cluster development; and,
- WHEREAS: Because Mr. Hechter is constructing six townhome units in a cluster development, he is not able to meet the Zoning Ordinance setback requirements from residential units; and,
- WHEREAS: The distance between units 1 and 2 and 3 and 4 is 44 feet instead of the 60 feet required by Zoning Ordinance Section 601.01(5)(f)(8) and Zoning Ordinance Section 601.01(5)(f)(9); and,
- WHEREAS: In order for Mr. Hechter to proceed with the six townhome cluster development will require the City to grant the following Variances:
1. A Variance from Zoning Ordinance Section 601.01(5)(f)(8) granting an eight foot front yard setback variance from the Ordinance requirement of 30 feet,

permitting the townhome structures to be constructed with a 22 foot front yard setback.

2. A Variance from Zoning Ordinance Section 601.01(5)(f)(9) granting an eight foot variance from the 40 foot rear yard setback requirement permitting the townhomes to be constructed with a rear yard setback of 22 feet; and,

WHEREAS: The City Council has determined that the strict provision of Zoning Ordinance Section 601.01(5)(f)(8) and Section 601.01(5)(f)(9) creates an undue hardship or particular difficulty because the Bluffland/Shoreland Ordinance permits Mr. Hechter to cluster his townhome development and waives building setback requirements while the Zoning Ordinance makes no exception for a cluster development; and,

WHEREAS: Mr. Hechter's property has a land area of 90,507 square feet which is located in the Bluffland/Shoreland area which permits 20% of the area, or 18,101 square feet, to have an impervious surface; and,

WHEREAS: The City of Bayport has a public road and utility easement across Mr. Hechter's property; and,

WHEREAS: The impervious surface for Mr. Hechter's townhome development, including private roads, equals 18,075 square feet and the City's public road located on Mr. Hechter's property has an impervious surface area of 12,651 square feet, bringing the total impervious surface area to 30,726 square feet; and,

WHEREAS: The total impervious surface of Mr. Hechter's development and the City's public street equals 30,726 square feet, which is 12,625 square feet above the impervious surface area permitted of 18,101 square feet; and,

WHEREAS: The City Council has determined that Mr. Hechter's Impervious Surface Variance meets the hardship criteria stated in Bluffland/Shoreland Ordinance Section 405 in that the plight of the landowner is due to circumstances unique to his property not created by the landowner after May 1, 1974 because of the fact that the City of Bayport has a public street right of way which consists of an impervious surface area of 12,625 square feet and without the City's impervious surface area, Mr. Hechter's development has a total impervious surface area of 18,075 square feet, which is 26 feet under the permitted maximum impervious surface area of 18,101 square feet; and,

WHEREAS: Mr. Hechter's six townhome style development proposal at 520 and 560 Lakeside Drive is located in an area governed by the City's Floodplain Management Ordinance; and,

WHEREAS: Floodplain Ordinance Section 402.01 requires a fill elevation of 692 feet extend out for residential structures a minimum of 15 feet; and,

WHEREAS: In the southwest section of residential units 3 and 5, there is a significant decrease in land elevation which results in the fill dropping to an elevation of 686 feet, 15 feet west of residential units 3 and 5, which does not meet the requirements of Floodplain Ordinance Section 402.01; and,

WHEREAS: The City Council of the City of Bayport has determined that Mr. Hechter's variance request meets the criteria specified in Floodplain Management Ordinance Section 805.01 which permits the modification of a specific permitted development standard required in an official control to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship or particular difficulty; and,

WHEREAS: The City Council has determined the minimum fill elevation variance meets the criteria specified in Floodplain Management Ordinance Section 805.01 because a large section of Mr. Hechter's land is at or below an elevation of 682, which prohibits filling and consequently, has forced Mr. Hechter to place his residential units so that residential units 3 and 5 do not have the required fill elevation of 692 extending out the west side of the buildings for a distance of 15 feet.

WHEREAS: Based upon all of the files, records and proceedings herein, the City Council has determined that the above-described Variance requests should be granted for the following reasons:

- A. To not grant the requested variances would result in an undue hardship to the landowner because of circumstances that are unique to the property as described above.
- B. The requested variances are in keeping with the spirit and intent of the City Ordinances.
- C. The variances are required in order to allow the property owner to put his property to a reasonable use.
- D. The circumstances creating the need for variances are unique to the property and are not created by the landowner's actions.
- E. The granting of the requested variances will not alter the essential character of the locality in which the property is located.

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Grant a variance from Zoning Ordinance Section 601.01(5)(f)(8) granting a front yard setback variance of eight feet from the Zoning Ordinance setback requirement of 30 feet, permitting the townhomes to be constructed with a 22 foot front yard setback.
2. Grant a variance from Zoning Ordinance Section 601.01(5)(f)(9) granting a rear yard setback variance of eight feet from the Zoning Ordinance required setback of 30 feet, permitting the townhome units to be constructed with a rear yard setback of 22 feet.
3. Grant a variance from Bluffland/Shoreland Management Ordinance Section 402.01(9) granting an impervious surface variance of 12,625 square feet from the maximum allowed impervious surface area of 18,101 square feet, permitting the total impervious surface area for the proposed development and City public road to be 30,726 square feet, or 33.9% and that the impervious surface variance is granted conditional upon the Minnesota Department of Natural Resources approving the variance.
4. Grant a variance from Floodplain Management Ordinance Section 402.01 granting a minimum fill height variance of six feet from the requirement that the fill extend 15 feet from the residential structure at an elevation of 692 feet to permit a fill elevation of 686 extending west 15 feet out from townhome units 3 and 5.

Voting in favor: Councilmembers Newell, Kosmo, Schultz, Menard and Ridgway.

Voting against: None.

Absent: None.

**Discuss an Application for a Conditional Use Permit
to permit Construction of a Permanent
12-Hole Disc Golf Course at Barkers Alps
Case No. 00-05CUP**

Ken Hartung stated the City received a request from Greg Utecht, 832 South Minnesota Street, Bayport, Minnesota and Steve Kinde, 798 Quinlan Avenue North, Lakeland, Minnesota for the City to consider installing a permanent 12-hole disc golf course at Barkers Alps. He stated installation of a disc golf course at Barkers Alps required a Conditional Use Permit. He noted the Planning Commission held a Public Hearing on March 13, 2000 to discuss the application for the Conditional Use Permit. He noted during the Public Hearing a number of neighbors expressed opposition to the

disc golf course. He indicated following the Public Hearing the Planning Commission unanimously adopted a motion recommending the City Council deny the Conditional Use Permit for construction and operation of a permanent 12-hole disc golf course at Barkers Alps because the Planning Commission finds it does not meet the criteria specified in Zoning Ordinance Section 505.01 specifically finding that the construction of a permanent 12-hole disc golf course at Barkers Alps is inconsistent with the City of Bayport's Comprehensive Plan and is not compatible with the existing neighborhood.

Councilmember Ridgway stated she has put a lot of thought into this issue. She indicated if she could be convinced it would be good for the community, she would be in favor of voting for it. However, she stated she has a great deal of concern about the erosion this type of course would cause in Barkers Alps' steep slopes along with the vandalism and continuous maintenance required by the City.

Ron Van Zee, 470 South 5th Street, stated he believed at one time there were some disc golf baskets positioned in Barkers Alps. He indicated they lasted a short time before they were vandalized and not operational.

Ken Hartung stated the Planning Commission discussed the disc golf course that had been located in Barkers Alps back in the late 70's or 80's.

Moved by Councilmember Menard, seconded by Councilmember Kosmo, to deny a Conditional Use Permit to operate a disc golf course at Barkers Alps because the Council finds the proposal is not compatible with the existing neighborhood and consequently, does not meet the conditions required to grant a Conditional Use Permit listed under Zoning Ordinance Section 505.01.

Voting in favor: Councilmembers Menard, Kosmo, Schultz, Ridgway and Newell.

Voting against: None.

Absent: None.

**Discuss an Application for a Conditional Use Permit to Allow
the Operation of a Child Care Center for Pre-school Children at
People's Congregational Church 293 North 3rd Street and 309 North 3rd Street
Case No. 00-06 CUP**

Ken Hartung stated the City has received a request from Reverend Gregg Swope of People's Congregational Church and Marcy Dunlap, Child Care Center Coordinator, for the City to consider granting a Conditional Use Permit to permit the operation of a licenses day care center for pre-school children at 293 North 3rd Street and 309 North 3rd Street. He stated the child care center is proposed to operate for 20 children ranging from 33 months to pre-kindergarten age. The hours of operation are slated for Monday, Wednesday and Friday from 8:30 a.m. to 11:30 a.m. and from 12:30 p.m. to 3:30 p.m. He noted representatives from the church have stated they intend to use the current parking lot on the south side of the building as a drop off and pick up area for the child care center children. The child care center's two employees will be instructed to park on the east side of the church and not in the south parking lot. He also noted Minnesota law requires that child care centers provide no less than 1,500 square feet of playground area for the child care area. He indicated People's Congregational Church looked at

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providing a playground area on the north side of the church. However, he noted the area was a couple hundred feet short of meeting the 1,500 square feet requirement. He indicated the church also looked at providing a playground area on the south side of the church. However, the fence on the south side of the church facing 2nd Avenue North and Highway 95 would significantly detract from the architectural presentation and presence of the church. Consequently, the church has proposed constructing a 40' X 40' 1,500 square foot playground area at its office site located at 293 North 3rd Street. He noted the playground is proposed to be located between the office structure and the garage. He indicated this means staff and children will have to cross 2nd Avenue South to access the site. He noted the church has agreed to limit the crossings to times when the Andersen's shift change is not taking place. Additionally, the church has also agreed to help reduce on-street parking by providing up to six parking stalls on the east side of the church facility for staff at the dental clinic.

Ken Hartung indicated the Planning Commission held a Public Hearing related to People's Congregational Church's request for a Conditional Use Permit for a child care center on March 13, 2000. He noted no one from the public spoke against the Conditional Use Permit. He indicated following the Public Hearing, the Planning Commission unanimously adopted a motion recommending the City Council approve a Conditional Use Permit for People's Congregational Church of 293 North 3rd Street and 309 North 3rd Street for the operation of a day care center for up to 20 pre-school children with the following conditions:

- 1) That the hours of operation for the child care center shall be on Mondays, Wednesdays and Fridays from 8:00 a.m. to 4:00 p.m.
- 2) The facility must operate for no more than 20 children ranging in age from 33 months to 6 years.
- 3) Staff associated with the child care center must park in the east parking lot on the east side of the church building.
- 4) Children coming to the child care center must be dropped off and picked up in the south parking lot of the church facility.
- 5) A child care identification sign may be erected with a size not to exceed 1' by 2'.
- 6) The playground area measuring 1,500 square feet may be constructed on the church office property at 293 North 3rd Street. However, the Planning Commission strongly recommends the church explore every avenue to locate the playground facility on the property in which the day care center is operated at 309 North 3rd Street in order to avoid having to cross 2nd Avenue North to get to the playground area at 293 North 3rd Street.
- 7) People's Congregational Church agrees to provide up to six parking spaces for the staff at the dental office to reach a solution to off-street parking.

Councilmember Ridgway expressed concern with children and staff having to cross 2nd Avenue South. She asked City staff if it would be possible to paint a crosswalk at the point in which the staff leaves People's Congregational Church, which is approximately 120 feet from the intersection of Highway 95 and 2nd Avenue North.

Police Chief John Gannaway stated he would recommend the staff and children cross at the normal crosswalk intersection at 2nd Avenue North and Highway 95. He indicated crossing at a point further east may obstruct some cars' view as they round the corner.

Councilmember Menard recommended changing one of the conditions of the Conditional Use Permit so that it states the hours of operation for the child care center shall be Mondays through Fridays from 8:00 a.m. to 4:00 p.m. Councilmember Kosmo suggested the Conditional Use Permit be changed to add another condition which states child care center staff and children must cross at the normal pedestrian intersection crossing located at Highway 95 and 2nd Avenue North to access the playground at 293 North 3rd Street.

Councilmembers agree these conditions should be added to the Conditional Use Permit.

Moved by Councilmember Kosmo, seconded by Councilmember Newell, to approve Conditional Use Permit Case Number 00-05 CUP for People's Congregational Church at 293 and 309 North 3rd Street, Bayport, Minnesota.

- WHEREAS: People's Congregational Church owns the property at addresses of 293 North 3rd Street and 309 North 3rd Street; and,
- WHEREAS: The property described as 293 North 3rd Street and 309 North 3rd Street is zoned R-4 Single Family Urban District; and,
- WHEREAS: The land to the north, east and west is zoned R-4 Single Family Urban District; and,
- WHEREAS: The land to the south is zoned B-3 Commercial Business District; and,
- WHEREAS: People's Congregational Church is proposing to operate a childcare center for pre-school children ranging in age from thirty-three months to six years at People's Congregational Church located at 309 North 3rd Street and at People's Congregational Church Office at 293 North 3rd Street; and,
- WHEREAS: Zoning Ordinance Section 601.01 (5)(e)(5) designates Day Care Centers are permitted in the R-4 Single Family Urban District as a Conditional Use; and,
- WHEREAS: Zoning Ordinance Section 505.01 states that the governing body may grant a Conditional Use Permit in any district provided the proposed use is designated in section 6 of the City Zoning Ordinance as a Conditional Use for the district upon finding that:
1. Certain conditions, as detailed in the Zoning Ordinance exist.

2. The use or development conforms to the Comprehensive Land Use Plan of the community.
3. The proposed use is compatible with the existing neighborhood.
4. The proposed use meets conditions or standards adopted by the community not incorporated in this ordinance; and,

WHEREAS: The Bayport Planning Commission held a Public Hearing on Monday, March 13, 2000 to consider a Conditional Use Permit to allow People's Congregational Church to operate a Child Care Center at 293 North 3rd Street and 309 North 3rd Street; and,

WHEREAS: Following the Public Hearing on March 13, 2000, the Planning Commission unanimously adopted the following motion:

Recommend the City Council approve a Conditional Use Permit for People's Congregational Church, 293 North 3rd Street and 309 North 3rd Street for the operation of a Child Care Center for up to 20 pre-school children, with the following conditions:

1. That the hours of operation for the Child Care Center shall be Mondays, Wednesdays and Fridays from 8:00 a.m. to 4:00 p.m.
2. That the facility shall operate with no more than 20 children ranging in ages from thirty-three months to six years.
3. Staff associated with the Child Care Center must park in the east parking lot on the east side of the church building.
4. Children attending the Child Care Center must be dropped off and picked up in the south parking lot of the church facility.
5. A Child Care Center identification sign may be erected with a size not to exceed 1' by 2'.
6. A playground area measuring 1500 square feet is to be constructed on the church office property at 293 No. 3rd Street. The playground area shall be constructed between the church office building and the garage located at 293 No. 3rd Street.

7. People's Congregational Church shall provide a minimum of six off-street parking spaces for the staff of the Gentle Dentistry business and that such off-street parking shall be provided in the east parking lot on the east side of the church building.

WHEREAS: At the City Council meeting of April 3, 2000 7:00 p.m., the City Council reviewed information associated with People's Congregational Church's request to operate a Day Care Center, reviewed the Planning Commission's Minutes and discussed the Conditional Use Permit amongst themselves; and,

WHEREAS: The Bayport City Council has determined that the operation of a Child Care Center at People's Congregational Church at 293 No. 3rd Street and 309 No. 3rd Street meets the conditional use criteria specified in Zoning Ordinance Section 505.01.

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Approve a Conditional Use Permit for People's Congregational Church of 293 North 3rd Street and 309 North 3rd Street for the operation of a Child Care Center for up to 20 pre-school children with the following conditions:
 - a) That the hours of operation for the Child Care Center shall be Mondays through Fridays from 8:00 a.m. to 4:00 p.m.
 - b) That the facility shall operate with no more than 20 children ranging in ages from thirty-three months to six years.
 - c) Staff associated with the Child Care Center must park in the east parking lot on the east side of the church building.
 - d) Children attending the Child Care Center must be dropped off and picked up in the south parking lot of the church facility.
 - e) A Child Care Center identification sign may be erected with a size not to exceed 1' by 2'.
 - f) A playground measuring 1500 square feet may be constructed on the Church Office property located at 293 North 3rd Street. The playground area shall be

constructed between the church office building and garage located at 293 North 3rd Street.

- g) Children shall not cross 2nd Avenue North to access the playground area at 293 North 3rd Street during shift change traffic at the Andersen Corporation.
- h) People's Congregational Church agrees to provide a minimum of six parking spaces for Filson Dental Office personnel in the east parking lot on the east side of the church at 309 North 3rd Street.
- i) Child care center staff and children must cross 2nd Avenue North at the pedestrian intersection at 2nd Avenue North and Highway 95 as the crossing point for accessing and coming back from the playground located at 293 North 3rd Street.

Voting in favor: Councilmembers Newell, Kosmo, Menard, Ridgway and Schultz.

Voting against: None.

Absent: None.

**Discuss Adopting a Resolution
Designating the 1999 General Fund Balance
Effective December 31, 1999**

Councilmember Kosmo introduced the following resolution and moved its adoption:
RES. 00-32

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
DESIGNATING THE 1999 GENERAL FUND BALANCE EFFECTIVE DECEMBER 31,
1999

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution Authorizing the
Disposition of Certain City of Bayport Computer Equipment**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-33

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE DISPOSITION OF CERTAIN CITY OF BAYPORT COMPUTER
EQUIPMENT

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution Amending Resolution No. 00-08
Closing the 1992 General Obligation Improvement
Bond Service Fund, 311 and Transferring Residual Assets
of \$43,304.28 to the Street and Utility Reconstruction Fund 102**

Councilmember Newell introduced the following resolution and moved its adoption:
RES. 00-34

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AMENDING RESOLUTION 00-08 CLOSING THE 1992 GENERAL OBLIGATION
IMPROVEMENT BOND DEBT SERVICE FUND 311 AND TRANSFERRING RESIDUAL
ASSETS OF \$43,492.46 TO THE STREET AND UTILITY RECONSTRUCTION FUND
102.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Alien Schultz - aye

**Discuss Adopting a Resolution Transferring
\$326,340 from the General Fund 101 to the Street and Utility
Reconstruction Fund 201**

Councilmember introduced the following resolution and moved its adoption:
RES. 00-35

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE TRANSFER OF \$326,340 FROM THE CITY'S 1999 GENERAL
FUND 101 TO THE CITY'S CAPITAL PROJECT STREET AND UTILITY
RECONSTRUCTION FUND 102 EFFECTIVE DECEMBER 31, 1999

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting Resolutions Associated
with Various Budget Adjustments**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-36

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING THE 1999 BUDGET FOR THE RECREATIONAL CAPITAL EQUIPMENT
AND MAINTENANCE FUND**

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

Jim Menard - aye	Sharon Ridgway - aye
Linda Newell - aye	Allen Schultz - aye
Jim Kosmo - aye	

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-37

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING THE 1999 BUDGET OF THE PUBLIC WORKS EQUIPMENT
REPLACEMENT FUND**

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

Jim Menard - aye	Sharon Ridgway - aye
Linda Newell - aye	Allen Schultz - aye
Jim Kosmo - aye	

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-38

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING THE 2000 BUDGET OF THE PUBLIC WORKS EQUIPMENT
REPLACEMENT FUND**

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

Jim Menard - aye	Sharon Ridgway - aye
Linda Newell - aye	Allen Schultz - aye
Jim Kosmo - aye	

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-39

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE TRANSFER OF \$32,964 FROM TAX INCREMENT FINANCING
ECONOMIC DEVELOPMENT DISTRICT NUMBER 2, FUND 106, TO TAX
INCREMENT FINANCING REDEVELOPMENT DISTRICT NUMBER 1, DEBT SERVICE
FUND 303

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

Jim Menard - aye	Sharon Ridgway - aye
Linda Newell - aye	Allen Schultz - aye
Jim Kosmo - aye	

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-40

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AMENDING RESOLUTION 99-11 ADOPTING THE DRUG FORFEITURE FUND FOR
THE YEAR OF 1999

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

Jim Menard - aye	Sharon Ridgway - aye
Linda Newell - aye	Allen Schultz - aye
Jim Kosmo - aye	

**Discuss Authorizing a Contract with
Minnesota Risk Services to Bring the City
in Compliance with OSHA Regulations**

Ken Hartung stated in February, the City conducted a mock OSHA safety inspection conducted by Minnesota Risk Services. Following the safety inspection, it was determined there were a number of areas where the City was deficient. Consequently, in order for the City to take a proactive approach to bring the City in compliance with OSHA regulations, with a goal of making the City's work environment safer for City employees and minimizing any fines against the City, staff is recommending the contract with Minnesota Risk Services to complete the work associated with bringing the City into compliance with OSHA regulations.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-41

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVE A CONTRACT BETWEEN THE CITY OF BAYPORT AND MINNESOTA
RISK SERVICES OF MINNEAPOLIS, MINNESOTA TO PERFORM TASKS
ASSOCIATED WITH ASSISTING THE CITY OF BAYPORT WITH OSHA
COMPLIANCE FOR AN ANNUAL COST OF \$2,100.00

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

Voting in favor: Councilmembers Menard, Newell, Kosmo, Ridgway and Schultz.

Voting against: None.

Absent: None.

Discuss Renewal of the City's Insurance Policies Related to Property, Inland Marine, Liability, Auto Liability, Auto Physical Damage, Excess Liability, Employee Dishonesty Bond, Volunteer Accident Plan Coverage, Open Meeting Law, Boiler and Equipment Coverage, Workers Compensation, and Waiving the Monetary Limits on Municipal Tort Liability

Ken Hartung, City Administrator, stated the City does need to renew its insurance policy for a number of areas for the City of Bayport. He indicated the insurance premium has been reduced for the year 2000 from 1999 by \$12,258.00.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-42

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING RENEWAL OF THE CITY'S INSURANCE POLICY AS IT RELATES TO PROPERTY, INLAND MARINE, LIABILITY, AUTO LIABILITY, AUTO PHYSICAL DAMAGE, EXCESS LIABILITY, EMPLOYEE DISHONESTY BOND, VOLUNTEER ACCIDENT PLAN COVERAGE, OPEN MEETING LAW, BOILER AND EQUIPMENT COVERAGE, WORKERS' COMPENSATION, AND WAIVING THE MONETARY AMOUNTS ON MUNICIPAL TORT LIABILITY

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

Discuss Approving the Continuance of the Goodwill Memorandum on Recycling for the Cities of Stillwater, Oak Park Heights and Bayport

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to Approve the Continuance of Memorandum Between the City of Bayport and Goodwill Industries

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for the year 2000, effective January 1, 2000 through December 31, 2000 and Authorize the City Administrator and Mayor to Sign the Continuance of Memorandum.

Voting in favor: Councilmembers Menard, Newell, Kosmo, Ridgway and Schultz.

Voting against: None.

Absent: None.

**Discuss a Request from the Hesley Jensen
American Legion Post 491 for a Donation for the
Memorial Day Ceremonies**

Moved by Councilmember Kosmo, seconded by Councilmember Menard, to Authorize a Donation of \$300.00 to the Hesley Jensen American Legion Post 491 to help Finance the Memorial Day Ceremonies.

Voting in favor: Councilmembers Kosmo, Menard, Newell, Ridgway and Schultz.

Voting against: None.

Absent: None.

**Discuss Adopting a Resolution Rejecting Bids for a
1999 or 2000 Chevrolet Tahoe/GMC Yukon Sport Utility Vehicle**

Ken Hartung, City Administrator, stated the City solicited bids for a 1999 or 2000 Chevrolet Tahoe/GMC Yukon Sport Utility Vehicle. He indicated the City received two bids, one from Routson Motors at \$31,846.84 and the other from Stillwater Motors at \$32,050.00. He indicated both bids were significantly over the original budget of \$26,000.00. Consequently, he and Police Chief John Gannaway are recommending the Council reject all bids.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-43

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
REJECTING BIDS FOR THE 1999 OR 2000 CHEVROLET TAHOE/GMC YUKON
SPORT UTILITY VEHICLE**

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution Approving
Bid Specifications for a Combination Pumper/Tanker
and Establishing a Bid Date for Tuesday, April 25, 2000 CDST**

Councilmember Newell introduced the following resolution and moved its adoption:
RES. 00-44

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING THE BID SPECIFICATIONS FOR A PUMPER/TANKER FIRE TRUCK
AND ESTABLISHING A BID DATE FOR TUESDAY, APRIL 25, 2000, BAYPORT CITY
HALL AT 10:00 A.M. CDST

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution Amending Resolution 97-46B
Establishing the Various Administrative Fines
in Accordance with the Municipal Code of Bayport Chapter 25**

Councilmember Kosmo introduced the following resolution and moved its adoption:
RES. 00-45

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AMENDING RESOLUTION 97-46B ESTABLISHING THE VARIOUS ADMINISTRATIVE
FINES IN ACCORDANCE WITH THE MUNICIPAL CODE OF BAYPORT CHAPTER 25

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution Accepting
a \$1,000.00 Grant from the Katherine B. Andersen Fund
of the Saint Paul Foundation**

Ken Hartung stated the City has received a \$1,000.00 check donation from the
Katherine B. Andersen Fund of the Saint Paul Foundation. He indicated the \$1,000.00
donation is made out to the City of Bayport to be spent specifically for the Bayport Fire
Department. Consequently, he noted, in order to accept the grant, the City must agree
to the terms of the grant which are outlined in the Grant Acceptance document attached.

Councilmember Newell introduced the following resolution and moved its adoption:
RES. 00-46

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ACCEPTING \$1,000.00 FROM THE KATHERINE B. ANDERSEN FUND OF THE SANT
PAUL FOUNDATION AND THAT SUCH FUNDS SHALL BE DEPOSITED IN THE CITY
OF BAYPORT FIRE EQUIPMENT REPLACEMENT FUND 200

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

ADMINISTRATOR'S REPORT

City of Bayport Local Board of Review

Ken Hartung, City Administrator, asked which Councilmembers will be in attendance at the Monday, April 10, 2000 Board of Review being held from 5:30 p.m. to 6:30 p.m. in the Bayport City Council Chambers.

Mayor Schultz, Councilmembers Ridgway and Menard stated they would be available. Councilmember Newell stated she would be available if one of the others could not make it. Councilmember Kosmo stated he will not be available.

Planning Commission Meeting

Ken Hartung, City Administrator, gave a courtesy reminder to Councilmembers of the Planning Commission meeting being held on Monday, April 10, 2000 at 7:00 p.m.

Research Streetlight

Ken Hartung, City Administrator, indicated a resident at the south end of Perro Creek Drive has requested the City investigate the possibility of putting in a street light near the intersection of Perro Creek Drive and 4th Avenue South. He indicated the resident stated at one time there was a light in that area.

The City Council indicated they had no problem with Ken Hartung doing initial research on the feasibility of installing a street light at the intersection.

Authorize Payment of Legislative Associates, Inc.

Ken Hartung, City Administrator, stated the City has received a bill from Legislative Associates, Inc. for work on the State of Minnesota's stormsewer project. He indicated he would like to have the City authorize payment of the \$3,120.00 bill.

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to authorize payment of Legislative Associates, Inc. in the amount of \$3,120.00.

Voting in favor: Councilmembers Newell, Kosmo, Ridgway, Schultz and Menard.

Voting against: None.

Absent: None.

**Establish a Public Hearing to Consider Vacating a Portion
of 2nd Avenue South**

Councilmember Linda Newell stated she would like to see the City Council consider vacating a portion of 2nd Avenue South between South 6th Street and the alley on Block 79. She asked City Attorney, Jim Lammers, whether the Council could take action on setting a Public Hearing for considering vacating a portion of 2nd Avenue South this evening. City Attorney, Jim Lammers, stated the City Council could take action on that item tonight.

Councilmember Kosmo introduced the following **Resolution** and moved its adoption:
RES. 00-47

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, SETTING
A PUBLIC HEARING FOR VACATING A PORTION OF 2ND AVENUE SOUTH
BETWEEN 6TH AVENUE SOUTH AND THE ALLEY ON BLOCK 79 FOR MONDAY,
MAY 1, 2000 AT 7:00 P.M. BAYPORT CITY COUNCIL CHAMBERS**

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

ADJOURN

Moved by Councilmember Menard, seconded by Councilmember Kosmo, to adjourn
the City Council Meeting.

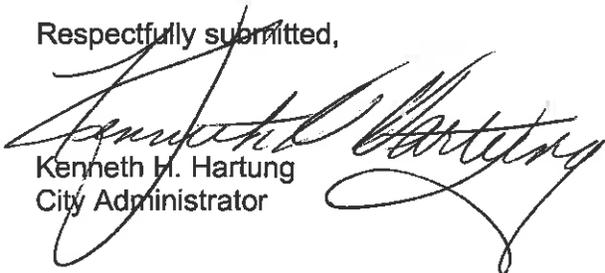
Voting in favor: Councilmembers Kosmo, Menard, Schultz, Newell and Ridgway.

Voting against: None.

Absent: None.

The regular City Council Meeting of April 3, 2000 was adjourned at 10:17 p.m.

Respectfully submitted,


Kenneth H. Hartung
City Administrator

CITY OF BAYPORT
BOARD OF REVIEW MEETING MINUTES
BAYPORT CITY COUNCIL CHAMBERS
APRIL 10, 2000
5:30 PM

CALL TO ORDER

Pursuant to due call and notice thereof, Mayor Allen Schultz called the City of Bayport's Board of Review Meeting to order and asked the City Administrator to call roll.

ROLL CALL

Members present: Mayor Allen Schultz, Councilmembers Jim Menard and Sharon Ridgway.

Members absent: Councilmembers Jim Kosmo and Linda Newell.

Others present: Ken Hartung, City Administrator, Scott Hovet, Washington County Appraiser Manager/Assessor, Butch Taylor, Washington County Property Appraiser II, David Stepan, Washington County Property Appraiser II, and Becky Radke, Washington County Property Appraiser I.

BOARD OF REVIEW PROCEEDINGS

Mayor Allen Schultz opened the Board of Review Meeting and asked the City Administrator, Ken Hartung, to read the Notice of Hearing.

Ken Hartung read the Notice of Hearing stating that the Board of Review of the City of Bayport, Washington County, Minnesota is meeting tonight in the Bayport City Council Chambers from 5:30 to 6:30 p.m. on April 10, 2000 for the purpose of reviewing and correcting the assessment of said properties within the City of Bayport for the year 2000. He stated all persons considering themselves aggrieved by said assessment, or wish to complain about the property of another is assessed too low, I hereby notify to appear at said meeting and show cause for having such assessment corrected. Ken Hartung said that the above notice was published in the Stillwater Evening Gazette on March 23, 2000. He stated the Notice of Board of Review was posted in the City Offices, Bayport Public Library and Bayport Post Office on Friday, March 17, 2000.

Scott Hovet, Washington County Assessor, stated the real estate market is extremely tight because of the good economy. He said he also has seen some significant increases in real estate property throughout the County ranging from 8 - 12%. He noted the average increase in real estate value for the residents of Bayport was between 5 ½ - 6%.

Bayport Board of Review Minutes
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City Councilmembers kept the Board of Review Meeting open until 6:30 p.m.

No Bayport resident made an appearance before the Board of Review between 5:30 and 6:30 p.m.

Moved by Councilmember Ridgway, seconded by Councilmember Menard to close the Bayport Board of Review Public Hearing.

Voting in favor: Councilmembers Ridgway, Menard and Schultz.

Voting against: None.

Absent: Councilmembers Kosmo and Newell.

ADJOURN

Moved by Councilmember Menard, seconded by Councilmember Ridgway to adjourn the City of Bayport Board of Review Meeting.

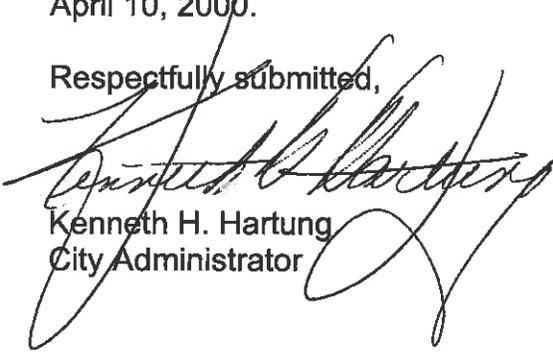
Voting in favor: Councilmembers Menard, Ridgway and Schultz.

Voting against: None.

Absent: Councilmembers Kosmo and Newell.

The City of Bayport Board of Review Meeting was adjourned at 6:30 p.m. April 10, 2000.

Respectfully submitted,


Kenneth H. Hartung
City Administrator

CITY OF BAYPORT
BAYPORT CITY COUNCIL MEETING MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
MAY 1, 2000
7:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Mayor Allen Schultz called the City Council Meeting of May 1, 2000 to order at 7:00 p.m. and asked Councilmembers, staff and the audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members Present: Mayor Allen Schultz, Councilmembers Linda Newell, Jim Menard, Sharon Ridgway and Jim Kosmo.

Members Absent: None.

Others Present: Ken Hartung, City Administrator; Jim Lammers, City Attorney; and Brad Carmichael, Fire Chief.

CONSENT AGENDA

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-48

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING CONSENT AGENDA ITEMS A, B, C, D AND E FROM THE MAY 1, 2000
COUNCIL AGENDA.

- A. Approve the minutes of the regular City Council Meeting of April 3, 2000.
- B. Approve the minutes of the Board of Review Meeting of April 10, 2000.
- C. Approve bills as presented in the amount of \$155,635.92.
- D. Approve receipts as presented in the amount of \$210,865.07.
- E. Approve building/plumbing/heating permits issued during the month of April, 2000.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

PUBLIC HEARINGS

Discuss Adopting an Adult Use Ordinance

Mayor Allen Schultz opened the Public Hearing related to the City Council discussing a proposed Adult Use Ordinance and asked the City Administrator to read the Notice of Hearing.

Ken Hartung, City Administrator, stated Notice of the Public Hearing Notice for the purpose of taking public comment associated with a proposed Adult Use Ordinance was published in the Stillwater Evening Gazette on April 17 and April 19, 2000 and posted in City Hall on April 2, 2000.

Jim Lammers, City Attorney, stated the City Council has been working with staff for approximately one year to address the issue of adult uses within the City of Bayport. He stated that the U.S. Courts have ruled in a number of cases that Cities cannot prohibit adult uses. However, he stated, Courts have indicated that Cities can adopt laws and Ordinances which regulate the secondary effect of adult uses. He noted secondary effects of certain adult entertainment may include endangering the morals of the community by being a site of acts of prostitution, elicit sex and occasions of violent crimes and thus, requiring close inspection, licensing and regulation.

Ken Hartung, City Administrator, reviewed key elements of the Adult Use Ordinance by outlining the differences between a principal adult use, which would be permitted in the Industrial Zone of the City and an accessory adult use, which would be permitted in the B-3 Central Business District. He stated principal adult uses include adult body painting, adult book stores, adult cabarets, adult companionship establishments, adult hotels and motels, adult massage parlors and health clubs, adult mini-motion pictures, adult modeling studios, adult motion picture arcade, adult motion picture theater, adult novelty businesses and adult saunas. He stated principal adult uses would be allowed in the Industrial Zone District. However, he stated, the businesses must be located a minimum of 1,000 feet from R-1, R-2, R-3 or R-4 buildings and from churches, places of worship and schools. Additionally, he noted principal adult uses must be located 1,000 feet from each other and liquor is prohibited in any form at the establishments. He then reviewed with City Councilmembers and members of the public, a City map which showed the areas within the City where principal adult uses would be allowed under this proposed Ordinance.

Ken Hartung went on to explain accessory adult uses include adult magazines, adult movies and adult novelties. He noted the Ordinance proposes that these would be located in the B-3 Central Business District. He indicated accessory adult uses are limited to 10% of the floor area of a given business. Additionally, accessory uses are prohibited within 500 feet of one another. He noted adult movie rentals or similar products must be located in a separate room and access to the room is in clear view of store personnel. Additionally, he noted adult magazines and publications shall not be accessible to minors and shall be covered with a wrapper. Ken Hartung then reviewed with Councilmembers and members of the public the area of the City where accessory adult uses would be permitted.

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May 1, 2000

Mayor Allen Schultz asked if members of the public had any comments related to the Adult Use Ordinance.

No members of the public spoke on the issue of the Adult Use Ordinance.

Moved by Councilmember Newell, seconded by Councilmember Kosmo to close the Public Hearing related to the proposed Adult Use Ordinance.

Voting in favor: Councilmembers Newell, Kosmo, Menard, Schultz and Ridgway.

Voting against: None.

Mayor Allen Schultz conducted the first reading of the proposed Adult Use Ordinance stating the City Council is considering adopting Chapter 10, Ordinance 735, an Ordinance establishing Article III of Chapter 10 of the City of Bayport Code defining and regulating sexually oriented uses within the City.

Councilmember Newell stated the Council has been reviewing this Ordinance for approximately one year. She said she has had ample time to review this issue and is ready to vote on adopting the Ordinance this evening. She stated she will be introducing a motion to waive the City Council by-law rules requiring a second reading of the Adult Use Ordinance.

Councilmember Kosmo stated the Council has been working on this issue for approximately one year. He noted he did not see any need to rush to adopt the Ordinance this evening. He stated he would like to see a second reading of the Ordinance at the next Council meeting. He stated he also feels uncomfortable adopting an Adult Use Ordinance this evening without knowing what the licensing fees will be for adult uses.

Ken Hartung, City Administrator, stated staff will be surveying other communities regarding the fees associated with their adult use licenses. He noted staff will be prepared to bring back a recommendation to the City Council at its next Council meeting. He indicated the proposed Adult Use Ordinance allows the City Council to set licensing fees for adult uses by Resolution.

Moved by Councilmember Newell, seconded by Councilmember Menard, to adopt a motion waiving the City Council by-law rules requiring a second reading of Adult Use Ordinance 735.

Voting in favor: Councilmembers Newell, Schultz, and Menard.

Voting against: Councilmembers Kosmo and Ridgway.

Moved by Councilmember Newell, seconded by Councilmember Menard, to adopt Ordinance 735, an Ordinance establishing Article III of Chapter 10 of the Bayport City Code defining and regulating sexually oriented uses within the City.

Voting in favor: Councilmembers Menard, Schultz, Ridgway and Newell.

Voting against: Councilmember Kosmo.

**Discuss Amending the City's Zoning Ordinance to Specify
Adult Uses in the Industrial and Central Business Districts**

Mayor Allen Schultz opened the Public Hearing for the purpose of taking public comment associated with an amendment to the City's Zoning Ordinance to specify adult uses in Industrial and Central Business Districts and asked the City Administrator to read the Notice of Hearing.

Ken Hartung, City Administrator, read the Notice of Hearing stating that the Public Hearing Notice for the purpose of taking public comment associated with an amendment to the City's Zoning Ordinance related to adult uses was published in the Stillwater Evening Gazette on April 18 and April 20, 2000 and posted in Bayport City Hall on April 17, 2000.

Ken Hartung stated the City Council earlier adopted Ordinance 735, an Ordinance defining and regulating sexually oriented uses within the City. He stated as a part of Ordinance 735, it specified primary adult uses were permitted in the Industrial Zone District and accessory adult uses were permitted in the Central Business District. He indicated in order for the City to be able to regulate adult businesses, the Zoning Ordinance must be consistent with Ordinance 735. Consequently, he indicated the City Council should consider amending the City's Zoning Ordinance to be consistent with the Adult Use Ordinance adopted by the City Council earlier this evening.

Mayor Allen Schultz asked if there was any public comment related to the proposed Zoning Ordinance Amendment.

No one from the public spoke on the proposed Zoning Ordinance Amendment.

Moved by Councilmember Menard, seconded by Councilmember Kosmo, to close the Public Hearing associated with proposed Ordinance 736, a Zoning Ordinance Amendment.

Voting in favor: Councilmembers Newell, Menard, Ridgway, Kosmo and Schultz.

Voting against: None.

Mayor Allen Schultz conducted the first reading of Ordinance 736, an Ordinance of the City of Bayport, Washington County, Minnesota, Amending Municipal Code by Amending Appendix B Related to Adult Uses.

Moved by Councilmember Ridgway, seconded by Councilmember Menard, to waive the City Council by-law rules requiring a second reading of Ordinance 735, an Ordinance Amending the Municipal Code of the City of Bayport by Amending Appendix B Related to Adult Uses.

Voting in favor: Councilmembers Ridgway, Menard, Newell, and Schultz.

Voting against: Councilmember Kosmo.

Moved by Councilmember Menard, seconded by Councilmember Ridgway, to adopt Ordinance 736, an Ordinance of the City of Bayport, Washington County, Minnesota Amending the Bayport Municipal Code by Amending Appendix B Related to Adult Uses.

Voting in favor: Councilmembers Ridgway, Schultz, Menard and Newell.

Voting against: Councilmember Kosmo.

**Discuss Adopting a Resolution Canceling the Public Hearing
to Consider Vacating a Portion of 2nd Avenue South
and Establishing a Public Hearing for June 5, 2000**

Mayor Allen Schultz stated there was a proposal this evening for the City Council to adopt a Resolution canceling this evening's May 1, 2000 Public Hearing which was to consider vacating a portion of 2nd Avenue South.

Ken Hartung stated at the City Council meeting of April 3, 2000, the Council adopted a Resolution setting a Public Hearing for Monday, May 1, 2000, to consider vacating a portion of 2nd Avenue South. He stated he failed to publish the Notice of the Public Hearing to consider vacating a portion of 2nd Avenue South within the time limit specified by State Statute. Consequently, he indicated the City Council will not be able to hold a Public Hearing this evening and must reschedule the Public Hearing for the next Council meeting of June 5, 2000.

Councilmember Ridgway introduced the following resolution and moved its adoption:
RES. 00-49

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
CANCELING THE PUBLIC HEARING SCHEDULED FOR MAY 1, 2000 AT 7:00 P.M.
AND ESTABLISHING A PUBLIC HEARING ON MONDAY, JUNE 5, 2000 AT 7:00 P.M.
IN BAYPORT CITY COUNCIL CHAMBERS FOR THE PURPOSE OF CONSIDERING
VACATING A PORTION OF 2ND AVENUE SOUTH.**

Motion for adopting the foregoing resolution was duly seconded by Councilmember Menard, and upon roll call being taken thereon, the following voted via voice:

Jim Menard - aye
Jim Kosmo - aye
Allen Schultz - aye

Linda Newell - aye
Sharon Ridgway - aye

PETITIONS

**Sue Larimer, President, Waterford on the St. Croix
Condominium Association**

Sue Larimer stated she is the President of the Waterford on the St. Croix Condominium Association. She stated she lives at 206 Mariner Way. She indicated she

was not able to attend the City Council meeting of April 3, 2000 when the Council decided to close the east/west access road to Hubb's Point from South Lakeside Drive. She stated another member of the condominium association was supposed to attend the meeting, but also was unable to make the meeting of April 3, 2000. She noted at this time she would like to go on record as opposing the City closing off the east access to the ice road from Lakeside Drive. She stated closing off the Lakeside Drive access will force all of the traffic using the ice road to use the road north of the condominiums. She stated she has no illusions that she will be able to change the Council's decision related to this issue. However, she stated she would like to ask the Councilmembers that the Council and the association work together if problems arise from traffic accessing the ice road from the road north of the condominiums property.

Ken Hartung, City Administrator, stated Sue Larimer had stopped in City offices during the afternoon. He indicated she expressed her concerns regarding the ice road traffic as a consequence of closing off the access to South Lakeside Drive. He stated that City staff will be happy to work with the organization in trying to address problems that may arise as a consequence of this issue.

CITY ATTORNEY

City Attorney Jim Lammers stated he had nothing to add at this point of the Council meeting.

CITY ENGINEER

Ken Hartung, City Administrator, stated he indicated the City Engineer did not have to attend this evening's meeting.

DEPARTMENT HEADS

Ken Hartung stated he had no comments at this point of the Council meeting unless Councilmembers had specific questions related to department operations.

COUNCIL LIAISON REPORTS

Joint Cable Commission Meeting

Ken Hartung stated the Central St. Croix Valley Joint Cable Communications Commission met on Wednesday, April 19, 2000 at 7:30 p.m. at Stillwater City Hall. He indicated the major items discussed were:

- 1) Continuing to complete the equipment inventory of the access studio after the studio was taken over by the Cable Commission.
- 2) Continue discussions with the Lower St. Croix Valley Joint Cable Communication Commission regarding the monthly PEG fee of \$1.25.

Ken Hartung stated selected members of the Central St. Croix Valley Joint Cable Communications Commission met with the Lower St. Croix Valley Joint Cable Communications Commission at Bayport City Hall on Thursday, April 20, 2000 at 7:00 p.m. The meeting was designed to identify the issues surrounding the PEG fee which is

currently not being assessed to the Lower St. Croix Valley Joint Cable subscribers. He noted the PEG fee is paid by the subscribers of cable in the Central St. Croix Valley to fund the four public access channels and the access studio. He stated another meeting has been scheduled with the Lower St. Croix Valley Joint Cable Communications Commission for June 7, 2000 to continue discussions on this issue.

OLD BUSINESS

**Discuss Modifying the Findings
of Ronn Hechter's Variance Certificate No. 00-04V**

Ken Hartung stated at the Council meeting of April 3, 2000, the Council approved Variance Certificate 00-04V for property located at 520 and 560 South Lakeside Drive to permit construction of six townhome units. He noted during discussion of the items associated with the Variance Certificate, the Council took comment from Patrick Kelly of Bannigan & Kelly, representing Charlie and Robin Kaiser. He stated Mr. Kelly's comments made reference to reminding Councilmembers that any variance granted for the six townhome units needs to be consistent with the City's Comprehensive Plan pages 39 and 47. He indicated City Attorney, Jim Lammers, has reviewed those sections of the Comprehensive Plan and is suggesting the Council modify the Variance to address Mr. Kelly's comments. He noted he has prepared a Variance Certificate with Mr. Lammers' additional language. He indicated the proposed variance is exactly the same as the adopted variance of April 3, 2000 except for two new paragraphs listed in the Findings of Fact.

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to approve Variance 00-04V as modified by City Attorney, Jim Lammers.

**CITY OF BAYPORT
VARIANCE CERTIFICATE
CASE NO. 00-04V**

APPLICANT: Ronn Hechter
PO Box 167
Bayport, Minnesota 55003

PROPERTY ADDRESS: 520 & 560 South Lakeside Drive

FINDINGS OF FACT:

WHEREAS: Ronn Hechter is the owner of property described in the legal description above, which is zoned R-4 Single Family Urban District; and,

WHEREAS: The land to the north, south, east and west is zoned R-4 Single Family Urban District; and,

WHEREAS: Single family residential homes exist on the north and east side of the property; and,

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- WHEREAS: Waterford-on-the-St. Croix Condominiums are located west of the property; and,
- WHEREAS: Twelve twinhomes are located directly north of the property; and,
- WHEREAS: The property is located in an area which has land use control regulations established by the City of Bayport Zoning Ordinance, the City of Bayport Bluffland/Shoreland Ordinance, the City of Bayport Floodplain Ordinance and the City of Bayport Stormwater Management Ordinance; and,
- WHEREAS: Ronn Hechter is proposing to construct six townhome style residential units on property at 520 and 560 South Lakeside Drive; and,
- WHEREAS: Zoning Ordinance Section 601.01(5)(e)(18) permits townhomes as a conditional use in the R-4 Single Family Urban District; and,
- WHEREAS: Bluffland/Shoreland Management Ordinance Section 703.01(2) permits Mr. Hechter to cluster residential units in an area controlled by the Bluffland/Shoreland Management Ordinance provided Mr. Hechter preserves agricultural land, open space, woods, scenic views, wetlands, and other features of the natural environment; and,
- WHEREAS: Mr. Hechter has set aside a significant section of the southwest portion of his property as a conservation easement to be maintained in its natural condition; and,
- WHEREAS: Using the cluster development concept as outlined in the Bluffland/Shoreland Management Ordinance Section 703.01 permits Mr. Hechter to construct six residential units on property located at 520 and 560 South Lakeside Drive; and,
- WHEREAS: Mr. Hechter is proposing to construct six residential units at 520 and 560 South Lakeside Drive which meets the criteria specified in the Bluffland/Shoreland Management Ordinance Cluster Development Section 703.01(2); and,
- WHEREAS: The City's Comprehensive Land Use Plan adopted on November 6, 1996 and illustrated on page 52, specifies the property at 520 and 560 South Lakeside Drive as low density residential permitting one to four units per acre; and,
- WHEREAS: Mr. Hechter's property is 90,500 square feet, equal to approximately two acres and is permitted to have up to eight residential units based on the City's November, 1996 Comprehensive Plan Land Use map on page 52; and,
- WHEREAS: Mr. Hechter's cluster development proposal is consistent with the guiding principals of the City's Comprehensive Plan and,

specifically, conforms to the City's policy to encourage innovative zoning and land use approaches to encourage the development of diverse and affordable housing for persons of all ages, and to promote mixed housing and clustering by Planned Unit Development, but maintain overall densities and circumstances where it is advantageous to protect natural features such as woodlands, wetlands and the bluffs; and,

WHEREAS: Mr. Hechter's cluster development proposal complies with the mixed density residential policies of the Comprehensive Plan, which states that these types of units are more likely to vary from traditional standards, but that efforts should be made to keep those units more consistent with the existing residential neighborhoods, which can be accomplished through bulk, area and lot requirements, which is being done pursuant to this proposal.

WHEREAS: Bluffland/Shoreland Management Ordinance Section 703.01 waives all of the Ordinance requirements with the exception of height and setbacks from bluffline and normal high water mark for a cluster development; and,

WHEREAS: Because Mr. Hechter is constructing six townhome units in a cluster development, he is not able to meet the Zoning Ordinance setback requirements from residential units; and,

WHEREAS: The distance between units 1 and 2 and 3 and 4 is 44 feet instead of the 60 feet required by Zoning Ordinance Section 601.01(5)(f)(8) and Zoning Ordinance Section 601.01(5)(f)(9); and,

WHEREAS: In order for Mr. Hechter to proceed with the six townhome cluster development will require the City to grant the following Variances:

1. A Variance from Zoning Ordinance Section 601.01(5)(f)(8) granting an eight foot front yard setback variance from the Ordinance requirement of 30 feet, permitting the townhome structures to be constructed with a 22 foot front yard setback.
2. A Variance from Zoning Ordinance Section 601.01(5)(f)(9) granting an eight foot variance from the 40 foot rear yard setback requirement permitting the townhomes to be constructed with a rear yard setback of 22 feet; and,

WHEREAS: The City Council has determined that the strict provision of Zoning Ordinance Section 601.01(5)(f)(8) and Section 601.01(5)(f)(9) creates an undue hardship or particular difficulty because the Bluffland/Shoreland Ordinance permits Mr. Hechter to cluster his townhome development and waives building setback

requirements while the Zoning Ordinance makes no exception for a cluster development; and,

- WHEREAS: Mr. Hechter's property has a land area of 90,507 square feet which is located in the Bluffland/Shoreland area which permits 20% of the area, or 18,101 square feet, to have an impervious surface; and,
- WHEREAS: The City of Bayport has a public road and utility easement across Mr. Hechter's property; and,
- WHEREAS: The impervious surface for Mr. Hechter's townhome development, including private roads, equals 18,075 square feet and the City's public road located on Mr. Hechter's property has an impervious surface area of 12,651 square feet, bringing the total impervious surface area to 30,726 square feet; and,
- WHEREAS: The total impervious surface of Mr. Hechter's development and the City's public street equals 30,726 square feet, which is 12,625 square feet above the impervious surface area permitted of 18,101 square feet; and,
- WHEREAS: The City Council has determined that Mr. Hechter's Impervious Surface Variance meets the hardship criteria stated in Bluffland/Shoreland Ordinance Section 405 in that the plight of the landowner is due to circumstances unique to his property not created by the landowner after May 1, 1974 because of the fact that the City of Bayport has a public street right of way which consists of an impervious surface area of 12,625 square feet and without the City's impervious surface area, Mr. Hechter's development has a total impervious surface area of 18,075 square feet, which is 26 feet under the permitted maximum impervious surface area of 18,101 square feet; and,
- WHEREAS: Mr. Hechter's six townhome style development proposal at 520 and 560 Lakeside Drive is located in an area governed by the City's Floodplain Management Ordinance; and,
- WHEREAS: Floodplain Ordinance Section 402.01 requires a fill elevation of 692 feet extend out for residential structures a minimum of 15 feet; and,
- WHEREAS: In the southwest section of residential units 3 and 5, there is a significant decrease in land elevation which results in the fill dropping to an elevation of 686 feet, 15 feet west of residential units 3 and 5, which does not meet the requirements of Floodplain Ordinance Section 402.01; and,
- WHEREAS: The City Council of the City of Bayport has determined that Mr. Hechter's variance request meets the criteria specified in Floodplain Management Ordinance Section 805.01 which permits

the modification of a specific permitted development standard required in an official control to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship or particular difficulty; and,

WHEREAS: The City Council has determined the minimum fill elevation variance meets the criteria specified in Floodplain Management Ordinance Section 805.01 because a large section of Mr. Hechter's land is at or below an elevation of 682, which prohibits filling and consequently, has forced Mr. Hechter to place his residential units so that residential units 3 and 5 do not have the required fill elevation of 692 extending out the west side of the buildings for a distance of 15 feet.

WHEREAS: Based upon all of the files, records and proceedings herein, the City Council has determined that the above-described Variance requests should be granted for the following reasons:

- A. To not grant the requested variances would result in an undue hardship to the landowner because of circumstances that are unique to the property as described above.
- B. The requested variances are in keeping with the spirit and intent of the City Ordinances.
- C. The variances are required in order to allow the property owner to put his property to a reasonable use.
- D. The circumstances creating the need for variances are unique to the property and are not created by the landowner's actions.
- E. The granting of the requested variances will not alter the essential character of the locality in which the property is located.

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Grant a variance from Zoning Ordinance Section 601.01(5)(f)(8) granting a front yard setback variance of eight feet from the Zoning Ordinance setback requirement of 30 feet, permitting the townhomes to be constructed with a 22 foot front yard setback.
2. Grant a variance from Zoning Ordinance Section 601.01(5)(f)(9) granting a rear yard setback variance of eight feet from the Zoning Ordinance required setback of 30 feet,

permitting the townhome units to be constructed with a rear yard setback of 22 feet.

3. Grant a variance from Bluffland/Shoreland Management Ordinance Section 402.01(9) granting an impervious surface variance of 12,625 square feet from the maximum allowed impervious surface area of 18,101 square feet, permitting the total impervious surface area for the proposed development and City public road to be 30,726 square feet, or 33.9% and that the impervious surface variance is granted conditional upon the Minnesota Department of Natural Resources approving the variance.
4. Grant a variance from Floodplain Management Ordinance Section 402.01 granting a minimum fill height variance of six feet from the requirement that the fill extend 15 feet from the residential structure at an elevation of 692 feet to permit a fill elevation of 686 extending west 15 feet out from townhome units 3 and 5.

Voting in favor: Councilmembers Newell, Kosmo, Ridgway, Schultz and Menard.

Voting against: None.

NEW BUSINESS

Discuss an Application for Variances to Permit Construction of an Addition to a Residential Structure at 378 2nd Avenue South Owned by John Taplin Case No. 00-07V

Ken Hartung stated on March 27, 2000, the City received an Application from John Taplin, 378 2nd Avenue South, for the City to hold a Public Hearing related to the following:

- 1) Consider an Application for a Zoning Ordinance rear yard setback variance to allow construction of an addition to the east side of the existing residential structure.
- 2) To consider an Application for a front yard setback variance to permit the construction of a wooden deck to the existing residential structure.

Ken Hartung stated Mr. Taplin owns an L-shaped lot with a legal description of the West ½ of Lot 4, the West ½ of Lot 5 and all of Lot 6, Block 77. He then reviewed with Councilmembers and members of the public, the location of Mr. Taplin's property by showing its location on a City map. He indicated Mr. Taplin is proposing to add an 11'8" x 21' sunroom addition to the east side of his existing house. He also indicated he is proposing to add a new wooden deck which would extend 5' out from the south side of the existing structure and 10' out to the east of the proposed addition. Ken Hartung then reviewed the proposed deck and addition with Councilmembers with the aid of a sketch.

He indicated unfortunately, given the position of the existing house and the L-shaped lot Mr. Taplin owns, there is no way for Mr. Taplin to add additional living space to his house without a variance. He indicated in order for Mr. Taplin to construct his proposed addition, it would require the City Council to consider granting a rear yard setback variance of 25 feet from the setback requirement of 30 feet, permitting the addition to his residential structure to be located within five feet of his back yard property line. He also indicated Mr. Taplin's proposed new deck addition would extend five feet out from the existing structure. He indicated the deck would be 27 feet from 2nd Avenue South. He noted 2nd Avenue South is Mr. Taplin's front yard, which requires a 30 foot setback. He stated consequently, in order for Mr. Taplin to proceed with construction of the new deck on the front of the house, it would require the City to grant a variance of three feet from the front yard setback requirement permitting the new wooden deck to be constructed with a front yard setback of 27 feet.

Ken Hartung stated the Planning Commission held a Public Hearing related to Mr. Taplin's request on Monday, April 10, 2000. He noted no one from the public spoke against the Taplin request. He stated following the Public Hearing, the Planning Commission voted unanimously to recommend the City Council approve a front yard setback variance of three feet and a rear yard setback variance of 25 feet.

Councilmember Newell asked Mr. Taplin if any of the neighbors expressed concern regarding his variance request.

Mr. Taplin, 378 2nd Avenue South, stated his neighbor to the east, Jim Connors, had originally expressed some concern regarding his home addition. He indicated, however, he and Mr. Connors have discussed the issue and he has actually reduced the size of his addition from what was going to be 13 feet in width to 11'8" to make sure that his residential structure will stay a minimum of five feet away from the property line. He indicated by keeping his house addition five feet away from the property line, Mr. Connors will be able to construct a detached garage at some future point in time, which would be five feet from Mr. Connors' south property line and still be able to maintain the Ordinance required 10' building separation from Mr. Connors' garage and his new house addition.

Mr. Taplin stated he is planning on the addition to increase the living space in his home and to add a fireplace, which the existing structure does not have. He stated it is impossible to add onto his living space without having the City Council grant a variance.

Moved by Councilmember Menard, seconded by Councilmember Kosmo, to approve Variance Certificate 00-07V for John Taplin, 378 2nd Avenue South.

**CITY OF BAYPORT
VARIANCE CERTIFICATE
CASE NO. 00-07V**

APPLICANT: John Taplin
378 2nd Avenue South
Bayport, Minnesota 55003

LEGAL DESCRIPTION: The West half of Lot 4, the West half of Lot 5 and all of Lot 6, Block 77, original Town of Bayport.

FINDINGS OF FACT:

- WHEREAS:** John Taplin is the owner of property described in the legal description above which is zoned R-4 Single Family Urban District; and,
- WHEREAS:** The land to the north, south, east and west is zoned R-4 Single Family Urban District; and,
- WHEREAS:** The R-4 Urban District permits residential structures, additions to residential structures and decks as permitted uses within its Zoning District; and,
- WHEREAS:** Mr. Taplin is proposing to add an addition to the east side of his house; and,
- WHEREAS:** Mr. Taplin is proposing to add a 11'8" X 21' sunroom with fireplace to compliment the existing interior living area components of his home; and,
- WHEREAS:** Mr. Taplin is also proposing to add a deck extending 5 feet to the south of his existing house and extending 12 feet to the east of his proposed new addition; and,
- WHEREAS:** Mr. Taplin's existing house and the L-shaped configuration of his lot makes it impossible for him to add living space to his existing house without the City granting variances to permit the construction; and,
- WHEREAS:** In order for Mr. Taplin to proceed with the addition and deck construction on his existing house, it will require the City to grant the following variances:
- 1) A variance from Zoning Ordinance Section 601.01(5)(f)(8) granting a front yard setback variance of 3 feet from the Zoning Ordinance required setback of 30 feet, permitting the deck addition to the residential structure to be constructed with a 27 foot front yard setback.
 - 2) A variance from Zoning Ordinance Section 601.01(5)(f)(9) granting a rear yard setback variance of 25 feet from the Zoning Ordinance required setback of 30 feet, permitting the addition to the residential structure to be constructed with a rear yard setback of 25 feet; and,
- WHEREAS:** Based upon all files, records and proceedings therein, the City Council has determined that the above-described variance request should be granted for the following reasons:

- 1) To not grant the requested variances would result in an undue hardship to the land owner because of circumstances that are unique to the property as described above.
- 2) The requested variances are keeping with the spirit and intent of the City Ordinances.
- 3) The variances are required in order to allow the property owner to put his property to a reasonable use.
- 4) Circumstances creating the need for the variances are unique to the property and are not created by the land owner's actions.
- 5) Granting the requested variances will not alter the essential character of the locality in which the property is located.

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Grant a variance from Zoning Ordinance Section 601.01(5)(f)(8) granting a front yard setback variance of 3 feet from the Zoning Ordinance required setback of 30 feet permitting the deck addition to the residential structure to be constructed with a 27 foot front yard setback.
2. Grant a variance from Zoning Ordinance Section 601.01(5)(f)(9) granting a rear yard setback variance of 25 feet from the Zoning Ordinance required setback of 30 feet permitting the addition to the residential structure to be constructed with a rear yard setback of 5 feet.

Voting in favor: Councilmembers Newell, Kosmo, Ridgway, Menard and Schultz.

Voting against: None.

**Discuss the City of Bayport
1999 Independent Audit and Accept
the Audit Report**

Ken Hartung, City Administrator, stated the City of Bayport is required to have an independent audit firm review the City's financial transactions and financial procedures for the fiscal year of 1999. He stated HLB Tautges, Redpath, Ltd. has completed the audit of the City's financial transactions and procedures for the fiscal year of 1999. He noted this evening that David Mol, partner with Tautges Redpath, will be presenting the audit report.

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David Mol, Tautges, Redpath, Ltd., indicated the City's financial report addresses the State requirement for an annual financial report, a State legal compliance report and a State report on internal controls. He noted his firm also does the financial analysis and management considerations of the City's fiscal year of 1999. He indicated the City of Bayport received an unqualified or clean opinion for 1999, meaning the auditor found the City was in compliance with all State requirements.

David Mol indicated the State legal compliance report is required by Minnesota State Statute Chapter 6.65. He indicated his audit team audited five categories, which included:

- 1) Contracting and bidding;
- 2) Deposits and investments;
- 3) Conflicts of interest;
- 4) Public indebtedness;
- 5) Claims and disbursements.

Mr. Mol went on to review the general fund revenues and expenditures. He indicated revenues exceeded the budget projections by \$421,000.00 and expenditures were under budget by \$182,000.00. He noted a significant portion of the excess revenue is due to a one-time fee for service contribution by the Andersen Corporation of \$151,000.00 in excess of their normal contribution. He noted this was a consequence of a significant decrease in the property taxes which were paid by the Andersen Corporation in 1999. He indicated the City's local government aid and homestead and agricultural credit aid increased for the year 2000 because of a significant decrease in the City's evaluation as a consequence of the reduction of Andersen's assessed value.

Ken Hartung stated the City of Bayport's general fund balance increased for 1999 to a total of \$1,454,000.00. He indicated the fire equipment replacement fund balance is \$312,000.00, the Bayport street utility reconstruction fund balance is \$1,962,000.00 and Bayport's outstanding debt at the end of 1999 was \$2,140,000.00.

David Mol reviewed the debt service fund requirements for the tax increment bonds, municipal building bonds and improvement bonds. He noted given the current scenarios, all bonds will be retired with a surplus. Consequently, he noted the bond debt service for each of the municipal bonds have adequate funds to pay the principle and interest required by the City. David Mol went on to review the sewer and water fund for 1999 indicating both funds had a positive fund balance. He indicated Bayport's trunk utility replacement fund balance is \$234,574.00. In summary, Mr. Mol stated:

- 1) The City has minimal delinquent assessment balances; a reflection of good collection rates.
- 2) The City's general fund balance increased by \$291,000.00 in 1999. General fund reserve requirements established by City policy are funded.

- 3) The Auditors recommend the City review its fund balance policy periodically to determine if amendments are appropriate.
- 4) Tax increments received by the City are not sufficient to fund the debt service of the 1990/1993 tax increment bonds. Therefore, the Auditors recommend that the City continue to levy \$13,000.00 annually for the tax increment bonds.
- 5) The City's water fund reflected a net income before operating transfers of \$78,004.00 in 1999.
- 6) The City's sewer fund reflected a net income before operating transfers of \$107,065.00 in 1999.
- 7) The Auditors recommend the City continue to annually review utility rates to ensure adequate funding and replacement of existing equipment.

Councilmembers thanked David Mol for conducting the independent audit and for his presentation.

**Discuss Approval of the St. Charles
Summer Festival and Car Show**

Moved by Councilmember Menard, seconded by Councilmember Newell, to approve the following items associated with St. Charles Church Summer Festival and Car Show to be held on Saturday, August 19, 2000:

- 1) Approve blocking off 3rd Avenue North from 2nd Street North to Highway 95 from 9:00 a.m. to 10:00 p.m. on Saturday, August 19, 2000.
- 2) Approve a one-day temporary on-sale liquor license for Saturday, August 19, 2000 and waiving all local fees.
- 3) Approve the use of Perro Park and Perro Park electrical outlets for festival activities to be conducted by St. Charles Church on Saturday, August 19, 2000.
- 4) Approve an Application for Exemption from Lawful Gambling License for St. Charles Church to conduct its exempt lawful gambling activities on Saturday, August 19, 2000.
- 5) Approve the use of Perro Park hockey rink and Village Green for St. Charles Church Summer Festival and Car Show to be held on Saturday, August 19, 2000.
- 6) Approve the use of North 4th Street from 2nd Avenue North to 5th Avenue North and North 2nd Street from 4th Avenue North to 2nd Avenue North for the St. Charles Church Classic Car Show to be held on Saturday, August 19, 2000.
- 7) Authorize and direct the Bayport Police Department to post no-parking signs on the east and west sides of North 4th Street from 2nd Avenue North to 5th

Avenue North and North 2nd Street from 4th Avenue North to 2nd Avenue North on Friday afternoon, August 18, 2000 through August 19, 2000.

- 8) Authorize and direct the Public Works staff to provide additional trash containers for the Village Green area and the Perro Park area to accommodate trash for the St. Charles Summer Festival and Car Show on Saturday, August 19, 2000.

Voting in favor: Councilmembers Newell, Schultz, Ridgway, Kosmo and Menard.

Voting against: None.

**Discuss Adopting a Resolution Approving
the Renewal of a Class B Premise Permit for
Church of Incarnation to Conduct Class B
Lawful Gambling Activities at Woody's**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-50

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING THE MINNESOTA LAWFUL GAMBLING CLASS B PREMISE PERMIT
APPLICATION FOR THE CHURCH OF INCARNATION, 3817 PLEASANT AVENUE
SOUTH, MINNEAPOLIS, MINNESOTA TO CONDUCT CLASS B LAWFUL GAMBLING
ACTIVITIES AT WOODY'S, LOCATED AT 109 NORTH 3RD STREET, BAYPORT,
MINNESOTA.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss A Request by Ladyslipper Chapter ABWA
for Approval of a Minnesota Lawful Gambling
Premise Permit for Little Rascals**

Ken Hartung, City Administrator, stated the City has received a request from Ladyslipper Chapter ABWA, Route 4, Box 86, Pine City, Minnesota, for the City to consider approving a lawful gambling premise permit to conduct Class B lawful gambling at Little Rascals, 193 North 3rd Street. He stated Little Rascals currently has Midway Speedskating Club, 2784 North Snelling, Suite 106, Roseville, Minnesota, conducting Class B lawful gambling activities. He noted Jerome Foss, the owner of Little Rascals, has sent a letter to Midway Speedskating Club indicating he wishes to terminate their lease agreement effective midnight, June 30, 2000. He indicated Mr. Foss is requesting the City consider granting Ladyslipper Chapter ABWA a permit license to operate the Class B lawful gambling operation at Little Rascals replacing Midway Speedskating

Club. He noted Marlyn Damman from Ladyslipper Chapter ABWA is here this evening to address any questions the Councilmembers may have.

Marlyn Damman stated her organization is committed to providing as much money as possible locally for education scholarships and education projects in addition to paying the City 10% of its net profits for its playground activities.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-51

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING THE MINNESOTA LAWFUL GAMBLING CLASS B PREMISE PERMIT
APPLICATION FOR LADYSLIPPER CHAPTER ABWA TO CONDUCT CLASS B
LAWFUL GAMBLING ACTIVITIES AT LITTLE RASCALS, 193 NORTH 3RD STREET,
BAYPORT, MINNESOTA.**

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

Discuss BFI Waste and Recycling Hauling Contract Renewal Proposal

Ken Hartung stated at the last City Council meeting held on April 3, 2000, Council directed the City Administrator to gather a number of information items associated with waste hauling in the metro area. He noted the contract with the City's current hauler, BFI began in August of 1997 and ends on September 30, 2000. He noted the current BFI contract has a cost of living adjustment. He indicated the 1999 cost of living adjustment for waste hauling in Bayport was 2.5%, which resulted in an increase from 13 cents to 20 cents per month. He indicated BFI has offered to renew its contract with its present language.

Ken Hartung reviewed the survey of 12 cities conducted in the metro area, comparing them with Bayport's waste hauling and recycling rates by using the following table:

**WASTE HAULING AND RECYCLING
 HAULING RATES**

CITY	POP.	SR. RATE	30-GALLON	60-GALLON	90-GALLON
Excelsior	2,335	\$11.50	\$11.50	Do not offer	\$12.50
Bayport	3,134	\$7.19	\$9.28	\$11.14	\$13.69
Oak Park Heights	4,033		\$10.20	\$11.42	\$13.05
Circle Pines	4,772		\$9.72	\$12.19	\$15.33
St. Paul Park	5,024		\$10.95	\$11.95	\$13.95
Falcon Heights	5,389	\$13.17	\$14.89	\$17.02	\$18.99
Buffalo	9,324		\$10.24	\$16.24	\$24.24
Little Canada	9,564		\$11.38	\$13.10	\$15.50
White Bear Lake Twnshp.	10,925	\$8.46	\$11.06	\$11.86	\$13.61
North St. Paul	12,780		\$9.44	\$11.58	\$13.43
White Bear Lake	26,000		\$9.03	\$9.91	\$11.41
Stillwater	35,720	\$9.00	\$11.45	\$13.24	\$15.10
	AVERAGE	\$9.86	\$10.76	\$12.69	\$15.07
Bayport Rates		<u>\$7.19</u>	<u>\$9.28</u>	<u>\$11.14</u>	<u>\$13.69</u>
	DIFFERENCE	\$2.67	\$1.39	\$1.55	\$1.38

Ken Hartung also reviewed the number of participants in each service level in the City with the following table:

WASTE HAULING SERVICE LEVEL PARTICIPANTS

<u>Service Level Participating</u>	<u>Number</u>
Senior 30-gallon	167
30-gallon service	191
60-gallon service	246
90-gallon service	93
Two 90-gallon service	<u>5</u>
	706

He also reviewed white goods disposal rates of Bayport's compared with three other communities in the metro area with the following table:

WHITE GOODS DISPOSAL RATES

ITEM	BAYPORT	LITTLE CANADA	NORTH ST. PAUL	WHITE BEAR LAKE
Household appliances	\$25.00	\$30.00	\$15.00	\$20.00
Furniture	\$15.00	\$30.00	\$15.00	\$20.00
Car tires	\$6.00	\$7.50	\$5.00	\$5.00
Mattress/Box Spring	\$10.00	\$15.00	\$10.00	\$15.00
Yard Waste	\$1.25	\$2.00	\$1.00	\$1.00
Total White Goods Cost per Community	\$57.25	\$84.50	\$46.00	\$61.00

He indicated Mike Stone, General Manager of BFI, and David Weidenfeller, Contract Manager of BFI are at this evening's meeting to address any questions Councilmembers may have regarding BFI's service and regarding proposed contract options between the City of Bayport and BFI.

Jim Menard stated that a couple of years ago he had BFI pick up 90-gallon service at his residence. He indicated he was contacted by BFI and told that they would no longer be able to pick up his own 90-gallon container because of difficulties of their automatic hoist lifting the 90-gallon container. As a consequence, he said he had to rent a 90-gallon container from BFI. He indicated he wished there were some other options available.

Mike Stone, General Manager of BFI, stated he is not sure of the conversation that took place between he and a BFI representative. However, he noted that BFI tells its service personnel that they are not to lift 90-gallon containers because of the significant risk of injury. However, he stated BFI has customers in Bayport who have three 30-gallon containers, which would count the same as a 90-gallon service. He noted the three 30-gallon containers can be lifted by their personnel and consequently, would not require a BFI container which fits on the hydraulic lift.

Mr. Stone also indicated BFI is very interested in continuing waste hauling and recycling service for Bayport residents. He noted BFI's personnel have made an effort to provide quality service to Bayport residents. He indicated one item which he would like to discuss in contract negotiations is establishing a more clear definition for the senior rate. At the present time, the contract does not stipulate an age at which the rate is made available.

Jim Kosmo stated he is personally pleased with the level of service that he has received from BFI personnel.

Moved by Councilmember Kosmo, seconded by Councilmember Newell, to direct the City Administrator to enter into negotiations with BFI with the goal of renewing the contract for a one, two, or three year period and that the contract be reviewed by the City Attorney and presented to the City Councilmembers for their review at the Council meeting of Monday, June 5, 2000.

Voting in favor: Councilmembers Newell, Kosmo, Schultz, Ridgway and Menard.

Voting against: None.

**Discuss Adopting a Resolution Authorizing
a Contract to Manufacture a Combination Pumper/Tanker Truck**

Ken Hartung stated at the April 3, 2000 Council meeting, the Council adopted Resolution 00-44 approving the bid specifications for a pumper/tanker truck and establishing a bid date of Tuesday, April 25, 2000. He indicated City staff advertised for bids for the combination pumper/fire truck in the City's official newspaper, the Stillwater Evening Gazette, on April 6 and April 10, 2000. In addition, staff sent proposals to six fire truck manufacturers. He indicated at the bid opening on April 25, 2000 at 10:00 a.m., the City had received two bids for a 2,000 gallon combination pumper/tanker truck. He noted the bids were from KME Fire Apparatus for \$270,148.00 and Clarey's Safety Equipment (Pierce Manufacturing, Inc.) for \$213,292.00. He indicated KME Fire Apparatus' bid included the radio equipment and installation. He noted Clarey's Safety Equipment (Pierce Manufacturing, Inc.) did not include radio equipment. He indicated Brad Carmichael, Fire Chief, was able to get an independent quote for radio equipment and installation at \$4,560.29, which would bring the total cost of the pumper/tanker truck from Clarey's Safety Equipment (Pierce Manufacturing, Inc.) to \$217,852.29.

Councilmember Newell introduced the following resolution and moved its adoption:
RES. 00-52

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE PURCHASE OF A 2,000 GALLON COMBINATION
PUMPER/TANKER FIRE TRUCK FROM PIERCE FIRE APPARATUS, APPLETON,
WISCONSIN, FOR A COST OF \$213,292.00.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

Councilmember Newell introduced the following Resolution and moved its adoption:
RES. 00-53

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE PURCHASE AND INSTALLATION OF A STATIONARY AND
PORTABLE RADIO UNITS FOR THE NEW COMBINATION PUMPER/TANKER FIRE
TRUCK FROM ANCOM COMMUNICATIONS, INC., BURNSVILLE, MINNESOTA, FOR
AN AMOUNT OF \$4,560.29.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution Authorizing
Installation of an OSHA Mandated Ventilation System
in the Fire Department Building**

Ken Hartung stated in late January, the City of Bayport had a mock OSHA inspection conducted by the City's insurance provider. He noted during the mock OSHA inspection, it was determined that new OSHA rules required the City of Bayport to install an air ventilation system in its fire station building. He indicated Fire Chief, Brad Carmichael, has received two quotes from companies who have an interest in installing an OSHA compliant air ventilation system in the fire station building. The quotes were provided by:

- | | |
|---|-------------|
| 1) Vogel Sheet Metal, Stillwater, Minnesota | \$21,920.00 |
| 2) All-Ways Mechanical, Apple Valley, Minnesota | \$19,588.00 |

He indicated All-Ways Mechanical's quoted price of \$19,588.00 was \$2,332.00 below the price quoted by Vogel Sheet Metal at \$21,920.00. However, he indicated All-Ways Mechanical's quoted price does not include the following items, which are included in Vogel Sheet Metals:

- 1) All-Ways Mechanical's price does not include electrical wiring to the rooftop unit.
- 2) All-Ways Mechanical price does not include the electrical wiring to the exhaust fans for the fire department garage ventilation units.
- 3) All-Ways Mechanical's quoted price does not include the wiring necessary to interlock the ventilation system with the garage doors.
- 4) All-Ways Mechanical's price quote does not include carbon monoxide detectors in the fire station building.

Ken Hartung indicated while All-Ways Mechanical's quote is \$2,332.00 below Vogel Sheet Metal, the City would have to separately contract out electrical work and purchase carbon monoxide detectors to get the same product provided by Vogel Sheet Metal. He indicated City staff believes even though All-Ways Mechanical has quoted a lower price, by the time the City contracts with an independent electrical contract and purchases the carbon monoxide detectors, the final price associated with All-Ways Mechanical doing the work would be higher than Vogel Sheet Metal's price quote at \$21,920.00. Consequently, he and the Fire Chief are recommending the City Council authorize Vogel Sheet Metal install the fire department's ventilation system for a cost not to exceed \$21,920.00.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-54

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING VOGEL SHEET METAL, STILLWATER, MINNESOTA, INSTALL A
VENTILATION SYSTEM AT THE CITY OF BAYPORT 'S FIRE DEPARTMENT FOR A
COST NOT TO EXCEED \$21,920.00.**

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Authorizing Installation of a Class A Foam System
For Fire Pumper Truck 2102**

Ken Hartung stated at the City Council workshop of February 10, 2000, Fire Chief, Brad Carmichael, discussed with Councilmembers the possibility of adding a Class A Foam System to an existing fire pumper. He indicated Fire Chief, Brad Carmichael, contacted two manufacturing representatives in the twin cities area for a price quote on a Class A Foam System. He indicated representatives were contacted from Emergency Apparatus Maintenance of New Brighton, Minnesota and Waterous, South St. Paul, Minnesota. He noted the City received one quote for installation of a Class A Foam System. He noted the quote was from Emergency Apparatus Maintenance of New Brighton, Minnesota, for a price of \$9,815.00.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-55

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING EMERGENCY APPARATUS MAINTENANCE OF NEW BRIGHTON,
MINNESOTA TO PROVIDE AND INSTALL A FOAM PRO 2001 CLASS A FOAM
INJECTION SYSTEM ON THE 1990 PIERCE PUMPER TRUCK FOR A COST NOT TO
EXCEED \$9,815.00.**

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss a Request by Stillwater Schools
Community Education Program to Use
Perro Park Tennis Courts**

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to authorize the Stillwater Area Schools Community Education Program use of the City's Perro Park Tennis Courts from August 7 through August 16, 2000 on Mondays and Wednesdays from 12:30 p.m. to 3:00 p.m. and further, that the Council authorizes the use of the tennis courts on Fridays during the same time period for make-up of rain days during a Monday or Wednesday regularly scheduled session.

Voting in favor: Councilmembers Newell, Menard, Schultz, Ridgway and Kosmo.

Voting against: None.

**Discuss Adopting a Resolution
Authorizing the Purchase of a New Police Vehicle**

Ken Hartung stated Police Chief, John Gannaway, has identified a police vehicle which is on the State contract to replace the existing squad car. The vehicle is a 2000 Dodge Durango Sport Utility Vehicle. The City received quotes from Buffalo Chrysler Auto Sales, Inc. of Buffalo, Minnesota at \$26,967.00 and Falls Automotive, Inc. of Fergus Falls, Minnesota at \$27,060.25.

Councilmember Kosmo introduced the following resolution and moved its adoption:
RES. 00-56

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE PURCHASE OF A 2000 4-WHEEL DRIVE DODGE DURANGO
SPORT UTILITY VEHICLE FROM BUFFALO CHRYSLER AUTO SALES, INC.,
BUFFALO, MINNESOTA FOR A PRICE OF \$26,967.00.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

ADMINISTRATOR'S REPORT

Installation of Floor Tile in Police Department

Ken Hartung, City Administrator, stated the Council identified up to \$3,000.00 to put in new tile flooring in the Police Department. He indicated the City has received quotes from Simonet's and Froggy's Carpet Shop with a cost ranging from \$2,100.00 to \$2,400.00. He stated once we finalize the quotes in this area, staff will be proceeding with the installation of the tile flooring from the vendor providing the lowest responsible quote.

Year 2001 Budget Meeting

Ken Hartung, City Administrator, stated the City Council will need to establish its Year 2001 Budget Workshop Meetings.

Moved by Councilmember Menard, seconded by Councilmember Ridgway, to establish the Year 2001 Budget Meetings on Thursday, July 6, 2000 and Thursday, August 17, 2000 at 7:00 p.m. in Bayport City Council Chambers.

Voting in favor: Councilmembers Menard, Ridgway, Schultz, Newell and Kosmo.

Voting against: None.

Blue Ribbon Committee on Fire Service Analysis

Ken Hartung, City Administrator, stated at the last Strategic Planning Committee meeting between the City Councils of Oak Park Heights and Bayport, the Councils determined a Blue Ribbon Committee on Fire Service should be formed to study the fire service between the City of Bayport and Oak Park Heights. Membership on the Blue Ribbon Committee is proposed to consist of:

- 1) One Councilmember from Oak Park Heights;
- 2) Five community members from Oak Park Heights;
- 3) One Councilmember from Bayport; and
- 4) Four community members from Bayport.

Councilmember Jim Menard volunteered to be the Councilmember representative for the City of Bayport.

Council discussion indicated that Mayor Allen Schultz should be a community representative for the City of Bayport.

Councilmembers suggested the City Administrator contact representatives of the First State Bank of Bayport, the Andersen Corporation, Jack Nyenhuis and Chuck Schwartz to see if they have an interest in serving as Bayport community members on the Blue Ribbon Committee. Ken Hartung, City Administrator, was instructed to bring back feedback from the community representatives for the June 5, 2000 Council meeting.

Police Ecumenical Service Request

The City of Bayport's Police Department is sponsoring the Police Department's Ecumenical Service scheduled for Sunday, May 7, 2000 at St. Charles Church at 1:00 p.m. The service is designed to honor Police Officers who were killed in the line of duty. To be able to facilitate the parking which may be required for the service, the Police Department has asked permission from the City Council to use the Perro Park baseball field for additional parking.

Moved by Councilmember Menard, seconded by Councilmember Kosmo, to authorize the use of the Perro Park ball field for parking associated with the Police Officers' Ecumenical Service to be held at St. Charles Church on Sunday, May 7, 2000 at 1:00 p.m.

Voting in favor: Councilmembers Kosmo, Menard, Schultz, Ridgway and Newell.

Voting against: None.

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ADJOURN

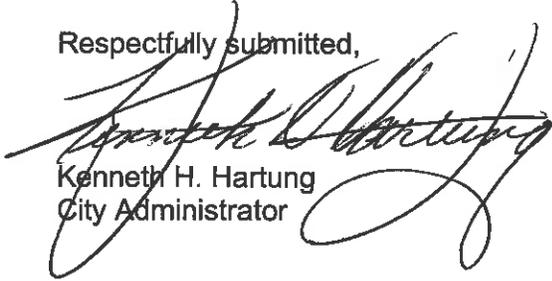
Moved by Councilmember Kosmo, seconded by Councilmember Newell, to adjourn the City Council meeting of May 1, 2000.

Voting in favor: Councilmembers Kosmo, Menard, Schultz, Newell and Ridgway.

Voting against: None.

The City Council meeting of May 1, 2000 was adjourned at 9:10 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator

CITY OF BAYPORT
BAYPORT CITY COUNCIL MEETING MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
JUNE 5, 2000
7:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Mayor Allen Schultz called the regular City Council Meeting of June 5, 2000 to order at 7:00 p.m. and asked Councilmembers, staff and the audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members Present: Mayor Allen Schultz, Councilmembers Linda Newell, Jim Menard, Sharon Ridgway and Jim Kosmo.

Members Absent: None.

Others Present: Ken Hartung, City Administrator; Jim Lammers, City Attorney; and Barry Peters, Consulting City Engineer.

CONSENT AGENDA

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-57

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING CONSENT AGENDA ITEMS A, B, C, AND D FROM THE JUNE 5, 2000
COUNCIL AGENDA.

- A. Approve the minutes of the regular City Council Meeting of May 1, 2000.
- B. Approve bills as presented in the amount of \$246,030.49.
- D. Approve receipts as presented in the amount of \$321,117.16.
- E. Approve building/plumbing/heating permits issued during the month of May, 2000.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

PUBLIC HEARINGS

Discuss Adopting A Resolution to Vacate a Portion of 2nd Avenue South

Mayor Allen Schultz opened the Public Hearing for the City Council to consider vacating a portion of 2nd Avenue South and asked the City Administrator to read the Notice of Hearing.

Ken Hartung, City Administrator, read the Notice of Hearing associated with considering vacating a portion of 2nd Avenue South and stated the Hearing Notice had been published in the Stillwater Evening Gazette on May 19 and May 26, 2000 and posted in City Hall on May 3, 2000. He also stated the City mailed notice of the proposed vacation of 2nd Avenue South to affected property owners on May 15, 2000.

Councilmember Newell stated she will be stepping down from the Council seat and not voting on this issue because her property is adjacent to the proposed vacated area and she would benefit from the vacation.

Ken Hartung then went on to illustrate the section of 2nd Avenue South proposed for vacation by reviewing a City map and plat map. He indicated at the present time there are no public utilities which run through 2nd Avenue South. He noted NSP has a private gas line going from the gas main on South 6th Street to the Newell property using the 2nd Avenue South right-of-way. He stated, however, if 2nd Avenue South were to be vacated, NSP would maintain ownership of the gas line to the Newell meter.

Councilmember Ridgway asked what public purpose would be served by vacating 2nd Avenue South.

Linda Newell, 295 South 6th Street, stated if the City were to vacate 2nd Avenue South, it would become private property and taxes would be paid on the land.

James Lay, 317 South 6th Street, stated he doesn't know where his property line is relative to South 6th Street and 2nd Avenue South. He stated he'd like to know where those property lines are.

Ken Hartung, City Administrator, stated unless a survey is performed of that area, no one will know for sure where the property lines are.

Councilmember Ridgway stated she is concerned about vacating 2nd Avenue South because of its potential for public or private utilities in the future. She stated she would like to know the justification for the request to vacate 2nd Avenue South.

Linda Newell, 295 South 6th Street, stated her residential structure has a one car garage attached to the north side of the house. She stated the house really should have a double garage. But unfortunately, she stated, there is not enough room on the north side to allow for the construction of a double garage. Additionally, she stated there is not enough room on the south side of the house to construct a double garage without vacating 2nd Avenue South.

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June 5, 2000

Councilmember Ridgway stated if, at some point in the future, a double garage was proposed for the south side of the house, she would be happy to consider vacating a portion or all of 2nd Avenue South. However, she stated, at this time there is no plan for a garage and she doesn't see the public purpose in vacating 2nd Avenue South.

Councilmember Menard stated he doesn't have a problem with vacating 2nd Avenue South as long as the City maintains a utility easement across a portion of 2nd Avenue South. He asked City Engineer, Barry Peters, what the width of the utility easement should be in this area.

Barry Peters, consulting City Engineer, stated the minimum utility easement should be at least 20 feet.

Councilmember Kosmo stated he lives near the area which is proposed for vacation this evening. He indicated the area is extremely steep and he doesn't see the possibility of a road ever being constructed in that area.

City Attorney, Jim Lammers, stated to vacate a portion of 2nd Avenue South will require a 4/5 vote. He noted if the property owners had petitioned for vacating 2nd Avenue South, it would require a 3/5 vote.

Moved by Councilmember Menard, seconded by Councilmember Kosmo to close the Public Hearing associated with discussion of the proposed vacation of 2nd Avenue South.

Voting in favor: Councilmembers Kosmo, Menard, Schultz and Ridgway.

Abstaining: Councilmember Newell.

Voting against: None.

Councilmember Menard introduced the following resolution and moved its adoption:

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
VACATING A PORTION OF 2ND AVENUE SOUTH IN THE CITY OF BAYPORT,
WASHINGTON COUNTY, MINNESOTA.

The motion for adopting the foregoing Resolution was duly seconded by Councilmember Kosmo and upon roll being taken thereon, the following voted via voice:

Jim Menard - aye
Linda Newell - abstain
Jim Kosmo - aye

Sharon Ridgway - nay
Allen Schultz - nay

Motion failed.

Linda Newell, 294 South 6th Street, asked City Attorney, Jim Lammers, what the next step is in the process.

City Attorney, Jim Lammers, stated the property owners could petition the City Council to vacate a portion of 2nd Avenue South. He stated if the City has a petition from at least 51% of the property owners directly affected by the vacation, it requires a 3/5 City Council vote to vacate the street rather than a 4/5 vote as required this evening.

Linda Newell, 295 South 6th Street, indicated she intends to petition the City Council to vacate a portion of 2nd Avenue South. She stated she would like the City Council to set a Public Hearing to consider vacating a portion of 2nd Avenue South for the City Council meeting of July 3, 2000.

Member Kosmo introduced the following Resolution and moved its adoption:

RES. 00-58

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ESTABLISHING A PUBLIC HEARING FOR JULY 3, 2000 AT 7:00 P.M. IN BAYPORT
CITY COUNCIL CHAMBERS FOR THE PURPOSE OF CONSIDERING VACATING A
PORTION OF 2ND AVENUE SOUTH.**

The motion for adopting the foregoing Resolution was duly seconded by Member Menard and upon roll being taken thereon, the following voted via voice:

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

PETITIONS

Mayor Allen Schultz stated after the regular meeting the City Council will hold a closed meeting. He read the following statement:

"Pursuant to the provisions of Minnesota Statutes Section 471.705, and based upon the advice of the City Attorney, I recommend that, at the end of the regular meeting of the City Council, the Council adjourn to a closed meeting.

The purpose of this closed meeting will be to give preliminary consideration regarding status of the employment of JoAnn McKean. If the Council concludes that disciplinary action is warranted, further meetings or hearings will take place at an open Council meeting.

A written record of the members of the Council and all other persons present at the closed meeting will be made available to the public following the meeting. A tape recording will be made of the closed meeting and if any action is taken by the City Council, a roll call will be taken at the meeting.

Following the closed session, or at the next regular meeting of the Bayport City Council, for the benefit of the public, the Council will summarize the discussion or action which took place at the closed meeting."

CITY ATTORNEY

City Attorney Jim Lammers stated he had nothing to add at this point of the Council Agenda.

CITY ENGINEER

Barry Peters, Consulting City Engineer, stated he had nothing to add at this point of the Council Agenda.

DEPARTMENT HEADS

Ken Hartung, City Administrator, stated he had nothing to add regarding Department Heads unless City Councilmembers had specific questions related to department operations.

COUNCIL LIAISON REPORTS

Memorial Day Parade

Mayor Allen Schultz thanked everyone involved with the Memorial Day Parade. He stated the parade activities went very well. He also stated the cemetery looked in excellent condition.

OLD BUSINESS

Ken Hartung, City Administrator, stated no old business has been scheduled for this evening's meeting.

NEW BUSINESS

Discuss an Application for a Fence Height Variance for Andersen Elementary School, 309 North 4th Street Case No. 00-08V

Ken Hartung, City Administrator, stated on April 11, 2000, the City received an Application from Stillwater School District requesting the City hold a Public Hearing to consider granting a fence height variance for the east side of the playground directly adjacent to Highway 95. He noted the school has made the request to extend the north 120' of the east fence and the west 32' of the north fence to a height of 16'. He stated the school's proposal would add 8 additional feet to the existing 8' high fence, giving it a total height of 16'. He stated the school district is requesting the fence be allowed to be constructed at 16' to minimize the chance of recreational balls used by children from going over the fence onto the highway. He noted Warren Buerkely, Principal of

Andersen Elementary School, has indicated a number of times recreational balls have gone over the fence which constitutes a significant safety hazard to motorists and to children and/or adults who must go into the street to retrieve the ball. Ken Hartung stated the Planning Commission held a Public Hearing on May 8, 2000 to consider the variance request for the school district associated with the fence height of 16'. He stated no one from the public spoke against the variance. He stated following the Public Hearing, the Planning Commission voted unanimously to recommend the City Council approve the fence height variance to allow the fence to be constructed to 16'.

Moved by Councilmember Menard, seconded by Councilmember Newell, to approve Variance Certificate Case No. 00-08V for Stillwater Area School District, Andersen Elementary School, 309 North 3rd Street, Bayport, Minnesota.

FINDINGS OF FACT:

WHEREAS: The City of Bayport has received a request from the Stillwater Area Public School District #834 for the City to consider granting a fence height variance; and,

WHEREAS: The Stillwater Area Public School District is requesting the City of Bayport to consider granting a fence height variance of 12' to permit a 16' high chain link fence to be erected on the east 32' of the north chain link fence and construct a 16' chain link fence on the north 120' feet of the east playground fence directly adjacent to Highway 95; and,

WHEREAS: The current fence is 8' and has, on numerous occasions, allowed a recreational ball from the playground area to clear the fence and land on Highway 95, which can constitute a significant safety hazard for motorists and for adults and children going out into the street to retrieve the ball; and,

WHEREAS: The City Council has determined that positive steps must be taken to remedy this situation and protect the safety, health and welfare of motorists, teachers, adult supervisors and children; and,

WHEREAS: The City Council has determined an effective way to reduce the safety hazards posed by recreational balls leaving the playground area and landing on Highway 95 is to allow the School District to erect a fence at a height of 16'; and,

WHEREAS: The City Council has determined that to not grant the requested variance would result in a significant safety hazard to motorists on Highway 95 and teachers, adult supervisors and children who would have to retrieve recreational balls leaving the playground area and landing on Highway 95.

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Grant a variance from Zoning Ordinance Section 705.02(4) granting a 12' fence height variance from the Ordinance requirement of a maximum fence height of 4' permitting the east 32' of the north chain link fence to be erected at a height of 16' and permitting the north 120' of the east chain link fence directly adjacent to Highway 95 to be constructed to a height of 16'.

Voting in favor: Councilmembers Newell, Kosmo, Ridgway, Menard and Schultz.

Voting against: None.

**Discuss an Application for a
Conditional Use Permit for the Andersen Corporation,
100 4th Avenue North
Case No. 00-09CUP**

Ken Hartung, City Administrator, stated the City has received a request on April 21, 2000 from the Andersen Corporation for the City to hold a Public Hearing to consider issuing a Conditional Use Permit to construct nine light poles at a height of 39' in the parking area north of building #45. Ken Hartung showed the City Councilmembers and members of the audience the location of the proposed site through the use of maps. He indicated the Andersen Corporation is proposing to install nine light poles at a height of 39' and 15 light poles 25' high in the parking area just north of building #45. He stated the light poles are being installed to light up the parking area which is used by Andersen employees. He noted approximately 295 parking spaces are located in this area and a number of employees have expressed concern for their safety and security in the parking lot because of poor lighting. He indicated the area in which Andersen's is proposing to install the lighting is zoned I-1 Industrial. He noted the property to the north, east and south is zoned I-1 Industrial and the property to the west is zoned B-2 Commercial. He stated the City Ordinance allows light standards up to 25' to be erected in the Industrial zone. He noted light standards over 25' are allowed, but only by Conditional Use Permit. He stated the Ordinance also limits the foot-candle to be emitted by the lights at the property line on Highway 95 cannot exceed one foot-candle. He noted a licensed Engineer has calculated the foot-candle pounds from the lights and determined that less than 1/10th of a foot-candle will be present on Highway 95. Additionally, he stated, a maximum of .4 foot-candles can be generated by the parking lot lights onto an adjacent residential property. He indicated again, a licensed Engineer has determined that there will be less than 1/10th of a foot-candle at the Andersen property line on Highway 95. Therefore, he stated, the proposed lighting by Andersen Corporation meets the foot-candle criteria specified in the Zoning Ordinance.

He summarized the Zoning Ordinance criteria associated with the Andersen security lighting proposal with the following table:

**Zoning Ordinance Criteria
 Andersen Security Lighting Proposal
 Residential Addition**

Zoning Ordinance Section	Required Criteria	Proposed Criteria	Variance or Conditional Use Permit
ZO 711.01 Off Street Parking Lot Lighting	Hooded Lighting	Hooded Lighting	None
ZO 711.01 Foot-candle Reading on Residential Property	Maximum .4 Foot-candle	Less than .1 Foot-candle	None
ZO 711.02 Light Standard Height	Maximum Without a CUP 25 feet	Install 14 poles at 25 feet in height	None
ZO 711.02 Light Standard Height	Maximum Without a CUP 25 feet	Install 9 poles at 39 feet in height	CUP

Ken Hartung stated the Planning Commission held a Public Hearing on May 8, 2000 to consider the Andersen Corporation's Conditional Use Permit request to construct nine light standards at a height of 39'. He noted no one from the public spoke against Andersen Corporation's request for a Conditional Use Permit. He stated following the Public Hearing, the Planning Commission voted unanimously to approve the Conditional Use Permit to allow nine 39' security light standards and fixtures to be installed in the Andersen lumber storage and parking area directly north of building #45.

Moved by Member Menard, seconded by Member Kosmo, to approve Conditional Use Permit Case Number 00-09CUP for the Andersen Corporation, 100 4th Avenue North, Bayport, Minnesota.

FINDINGS OF FACT:

WHEREAS: The Andersen Corporation is the owner of the property legally described as:

Beginning at the intersection of the south right of way line of Tenth Avenue North and the easterly right of way line of State Highway 95; thence southeasterly, along said easterly right of way line, 1,335 feet, to its intersection with the southwesterly extension of the north line of building No. 45; thence northeasterly, along said north line of building No. 45, to its intersection with the westerly right of way line of Chicago, St. Paul, Minneapolis & Omaha Railroad Company; thence northwesterly, along said railroad right of way, 1,208.90 feet, to said south right of way of Tenth Avenue North; thence westerly 478.95 feet, to the point of beginning.

which is zoned I-1, Industrial District; and,

- WHEREAS: The land to the north, east and south is zoned I-1, Industrial District; and,
- WHEREAS: The land to the west is zoned B-2, Commercial Business District; and,
- WHEREAS: The Andersen Corporation is proposing to install nine light standards with light fixtures at a height of 39' and 14 light standards with light fixtures at a height of 25' in a parking area and lumber storage area just north of building number 45; and,
- WHEREAS: Andersen Corporation has approximately 295 parking spaces located in the parking area and lumber storage area and said parking spaces are used by people who work on the day and night shifts at the Andersen Corporation; and,
- WHEREAS: A number of employees have expressed concern for their safety and security in the parking lot because of poor lighting; and,
- WHEREAS: The Andersen Corporation is proposing to install the light fixtures which will increase the light and increase the safety and security in the parking lot area; and,
- WHEREAS: Zoning Ordinance Section 711.02 permits the installation of light standards and light fixtures with a height of up to 25 feet as a permitted use; and,
- WHEREAS: Zoning Ordinance Section 711.02 permits the installation of light standards and light fixtures at a height greater than 25 feet to be installed in an Industrial zoned area with a Conditional Use Permit; and,
- WHEREAS: Zoning Ordinance Section 505.01 states the governing body may grant a Conditional Use Permit in any district provided the proposed use is designated in Section 6 of the City's Zoning Ordinance as a Conditional Use for the district and upon finding that:
- 1) Certain conditions as detailed in the Zoning Ordinance exist;
 - 2) The use or development conforms to the Comprehensive Land Use Plan of the community;
 - 3) The proposed use is compatible with the existing neighborhood;
 - 4) The proposed use meets the conditions or standards adopted by the community not incorporated in this Ordinance; and,

WHEREAS: The Bayport Planning Commission held a Public Hearing on May 8, 2000 related to the Conditional Use Permit for the installation of nine light standards and light fixtures at a height of 39' installed in the parking lot and lumber storage area directly north of the Andersen Corporation's building number 45; and,

WHEREAS: Following the Public Hearing on May 8, 2000, the Planning Commission unanimously adopted a motion recommending the City Council approve the Conditional Use Permit to allow the installation of nine light standards and light fixtures at a height of 39' in the parking lot and lumber storage area directly north of the Andersen Corporation's building number 45 and furthermore, finds that the installation of the light standards at the parking lot and lumber storage area meets the Conditional Use Permit criteria specified in Zoning Ordinance Section 505.01; and,

WHEREAS: At the City Council meeting of June 5, 2000, at 7:00 p.m., the City Council considered the Andersen Corporation's request for a Conditional Use Permit to erect nine light standards and light fixtures at a height of 39' in the parking area and lumber storage area directly north of the Andersen Corporation's building number 45; and,

WHEREAS: Following Council discussion, the Council determined the installation of nine light standards and light fixtures at a height of 39' in the Andersen Corporation's parking lot and storage area directly north of Andersen Corporation's building number 45 meets the Conditional Use Permit criteria specified in Zoning Ordinance Section 505.01 that:

- 1) Certain conditions as specified in the Zoning Ordinance permit the installation of nine light standards and light fixtures at a height of 39' in the I-1 Industrial District with a Conditional Use Permit;
- 2) The proposal to install nine 39' light standards and light fixtures in the Andersen parking lot and lumber storage area directly north of building number 45 is consistent with the City's Comprehensive Plan dated November 6, 1996;
- 3) The installation of nine 39' light standards and light fixtures is compatible with the existing neighborhood;
- 4) That there are no conditions or standards which have been adopted by the community not incorporated into the City's Zoning Ordinance which are applicable to the installation of nine 39' light standards and light fixtures at the Andersen Corporation parking lot and lumber storage area.

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Approve a Conditional Use Permit for the installation of nine light standards and light fixtures at a height of 39' in the Andersen Corporation's parking lot and lumber storage area directly north of building number 45.

Voting in favor: Councilmembers Menard, Newell, Schultz, Ridgway and Kosmo.

Voting against: None.

**Discuss an Application for a
Front Yard Setback Variance to Permit
Construction of a Detached Garage at
446 5th Avenue North
Case No. 00-10V**

Ken Hartung stated on April 21, 2000, the City received an application from Gary and Brenda Jinks, 446 5th Avenue North, requesting the City hold a Public Hearing to consider granting a front yard setback variance to permit construction of a detached garage. He indicated the Jinks are proposing to construct a detached garage measuring 28' x 32' with an area of 896 square feet. He indicated the Jinks currently do not have a detached or attached garage on their property. He noted the Jinks are planning to construct the garage in an area which was excavated approximately five years ago by the past owner of the property, Bart Fischer. Mr. Fischer, he indicated, excavated the area to create a flat parking area for his vehicles. He noted the Jinks are planning to remove the retaining walls present at the existing parking area and install a garage with a floating concrete slab and poured concrete foundation walls. He noted the Jinks' garage meets all of the Zoning Ordinance criteria with the exception of the front yard setback. He stated the primary reason for locating the garage as far south as possible, necessitating a front yard setback variance from 5th Avenue North is because the number of springs which run very close to the surface of the property on the north section of the lot. He noted the house directly north of the Jinks' property has water from springs constantly surfacing on the property, which required the installation of an extensive drainage system. In fact, he noted, the basement of the house on the property north of the Jinks' had to be filled because of underground springs. The Jinks do not want to disturb the north end of their lot because of the risk of hitting a spring. Consequently, he noted, in order for the Jinks to proceed with construction of the detached garage at the proposed location, it is necessary for the City to grant a front yard setback variance permitting the Jinks to construct a new detached garage 13' from the south property line adjacent to 5th Avenue North to avoid water springs on the north side of the property.

Ken Hartung summarized the Zoning Ordinance criteria associated with the Jinks' variance request with the following table:

**ZONING ORDINANCE CRITERIA
 446 5TH AVENUE NORTH**

Zoning Ordinance Section	Required Criteria	Proposed Criteria	Variance
ZO 601.01(f)(6) Max Lot Coverage by Structure	35% or 3,413 sq. ft.	23% or 2,240 sq. ft.	None
ZO 601.01(f)(7)(b) Max Garage Height	17 ft.	16 ft.	None
ZO 601.01(f)(8) Min. Front Yard Setback	30 ft.	13 ft.	17 ft.
ZO 601.01(f)(10)(c) Detached Garage from Interior Lot Line	5 ft.	25 ft.	None
ZO 703.02(2) Maximum Garage Area	1,000 sq. ft.	896 sq. ft.	None
ZO 703.11 Detached Garage from Right of Way	20 ft.	25 ft.	None

Councilmember Newell asked if the large tree adjacent to 5th Avenue North by the property will be affected.

Ken Hartung stated the tree is located approximately on the Jinks' property line. The garage will be approximately 13' from the tree and the tree will not be affected.

Moved by Councilmember Kosmo, seconded by Councilmember Newell, to approve Variance Certificate Case Number 00-10V for Brenda and Gary Jinks, 446 5th Avenue North, Bayport, Minnesota 55003.

FINDINGS OF FACT:

WHEREAS: Brenda and Gary Jinks are the owners of property legally described as Lot 7 of Block 27 and the south 15 feet of Lot 8, Block 27, Bayport (formerly South Stillwater), which is zoned R-4 Single Family Urban District; and,

WHEREAS: The property to the north, south, east and west is zoned R-4 Single Family Urban District; and,

WHEREAS: The R-4 Urban District identifies residential structures, additions to residential structures and detached garages as permitted uses within its zoning district; and,

- WHEREAS: The Jinks' presently do not have an attached or detached garage in which to store their vehicles and/or other equipment; and,
- WHEREAS: The Jinks' are looking to construct an on-slab 28' x 32' garage in an area which has been previously excavated as a parking area by the former owner, Bart Fischer; and,
- WHEREAS: The Jinks' are looking to locate their new detached garage as far south in the excavated area as possible in order to avoid underground springs which are located on the north portion of their lot; and,
- WHEREAS: It is necessary to avoid the springs on the north portion of their lot because the springs would undermine footings and the concrete slab associated with the garage; and,
- WHEREAS: Keeping the garage within 13' of the south property line, will avoid the springs on the north side of the lot preventing any damage to the proposed garage; and,
- WHEREAS: Based upon all files, records and proceedings therein, the City Council has determined the above-described variance request should be granted for the following reasons:

- 1) To not grant the requested variance would result in an undue hardship to the landowner because the circumstances are unique to the property as described above.
- 2) The requested variances are keeping with the spirit and intent of the City Ordinances.
- 3) The variances are required to allow the property owner to put his property to a reasonable use.
- 4) Circumstances creating a need for the variances are unique to the property and are not created by the landowner's actions.
- 5) Granting the requested variance will not alter the essential character of the locality in which the property is located.

NOW THEREFORE BE IT RESOLVED: by the City Council of the City of Bayport, Washington County, Minnesota, does hereby ordain as follows:

1. Grant a variance from Zoning Ordinance Section 601.01(f)(8) granting a front yard setback variance of 17' from the minimum front yard setback of 30' permitting the detached garage to be constructed with a front yard setback of 13' from the south property line adjacent to 5th Avenue North.

Voting in favor: Councilmembers Menard, Kosmo, Newell, Schultz and Ridgway.

Voting against: None.

**Discuss Granting Permission to
Construct a 4' High Fence Closer
Than 2' to the City's right-of-way**

Ken Hartung stated the City has received a request from Noreen Theobald and Scott Campisi, 203 North 5th Street, for the City to consider granting permission for them to construct a 42" high solid concrete fence closer than 2' to the City's right-of-way. He indicated Ms. Theobald and Mr. Campisi had Barry Stack, a Minnesota registered land surveyor, complete a Certificate of Survey for their property on May 11, 2000. He noted as a consequence of the survey, staff knows exactly where the fence will be located as it relates to the property line. He noted Zoning Ordinance Section 705.02 states that fences are not permitted to be closer than 2' to the property line. However, he stated, Zoning Ordinance Section 705.02(1) makes an exception to the rule and allows the fence to be constructed along the property lines provided no physical damage of any kind results to the abutting property and permission is granted, in writing, from the abutting property owner and submitted with the application. He stated Ms. Theobald and Scott Campisi have received a signed, written permission slip from Dick and Tippi Beberg, 237 North 5th Street, giving them permission to construct the north fence on the Beberg and Theobald property line.

Ken Hartung stated three sides of Ms. Theobald's property are abutting the City of Bayport's right-of-way. The property lines which abut the City's right-of-way are:

- 1) The front of the residence at 203 North 5th Street abuts North 5th Street;
- 2) The side yard lot line abuts 2nd Avenue North;
- 3) The east lot line abuts the alley right-of-way on Block 54.

He stated Ms. Theobald and Mr. Campisi are requesting the City Council grant permission to enable them to place their solid concrete block fence closer than 2' to the City's right-of-way. He stated they are proposing the fence be allowed to come within 4" of the property line. He stated he has reviewed this proposal with Public Works Supervisor, Mel Horak. He stated Mel has reviewed the placement of the wall to the alley on Block 54, along 1st Avenue North and North 5th Street. Following that review, he stated, staff has no problem with them placing the concrete block fence within 4" of the property line provided Ms. Theobald signs a declaration which would hold the City harmless for any damage done to the wall as a consequence of City maintenance activities.

Councilmember Ridgway stated she has some real concerns with construction of the concrete block wall along the alley. She stated she has driven through the alley a number of times and noted that Mr. Campisi has already poured the footings for the concrete block fence in the alley area. She stated the fence is being constructed outside the perimeter boundaries of the existing garage. She believes if the fence is constructed 4" from the alley property line, it will severely restrict movement in the alley and severely limit visibility for drivers coming out of the alley onto 1st Avenue South.

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Mayor Schultz asked how the north wall is planned to be maintained.

Mr. Campisi stated he has gotten a signed letter from Mr. and Mrs. Beberg giving him permission to construct the concrete block fence on the property line. He stated, however, he has constructed the fence approximately 1" - 2" inside the property line. He stated the fence will be finished with a brick face and limestone with a copper trim on the top.

Councilmember Ridgway asked Mr. Campisi how many posts are going to be constructed and the size of the posts.

Mr. Campisi stated there will be nine columns on the north wall measuring 16" x 16" approximately 60" high.

Councilmember Ridgway asked if there will be a corner post measuring 16" x 16" x 60" in height at the corner of his property where people exit from the alley onto 1st Avenue North.

Mr. Campisi stated there will be a corner post near the end of his property line adjacent to the alley.

Councilmember Ridgway stated 60" posts further restrict visibility of people coming out of the alley onto 1st Avenue South. She stated she believes the wall is too close to the property line for people to have a good view of 1st Avenue South as they enter traffic.

Scott Campisi, 203 North 5th Street, stated his neighbor to the east has trees and shrubbery which extend much further out into the street right-of-way than he is proposing to construct his new fence. Additionally, the trees and shrubbery are much higher than his 42" fence.

Ken Hartung stated he has drafted a Declaration which, if approved by the City Council and signed by Noreen Theobald, would permit the fence along the alley to be constructed within 4" of the property line contingent upon Ms. Theobald holding the City harmless for any damages to the wall which may occur as part of the City's regular maintenance.

Joyce Triviski, 253 North 5th Street, stated she has some real concerns with the fence Mr. Campisi is proposing. She listed her concerns as follows:

- 1) Concern about the corner post of 16" x 16" which will be placed at the corner of his property where 1st Avenue North intersects with the alley. She believes the post will obstruct the view of drivers while driving out from the alley onto 1st Avenue North.
- 2) The fence in the alley will make it harder to turn into the alley with trailers and boats. She has a boat which they are required to park in their garage or in their back yard because the City prohibits boat trailers from being parked on streets. Since the police don't patrol the streets or neighborhoods, it also requires her to store her boat inside a garage to prevent vandalism.

Bayport City Council Meeting Minutes
June 5, 2000

- 3) She believes with the wall being constructed as proposed in the alley will force her to back into the alley with her boat because she will not be able to negotiate the turn coming into the alley off of 1st Avenue North.
- 4) This is a friendly small town. The people in this town do not build commercial fences around their property because they don't get along with the neighbors.

John Klos, 253 North 5th Street, stated Mr. Campisi's concrete block fence being positioned within 4" off the alley right-of-way is too close to allow for maneuvering of vehicles with trailers into the alley.

Mayor Allen Schultz stated the alley on Block 54 has always been a problem. He noted almost all of the garages in the alley are very close to the alley property line. He noted Mr. Klos built his garage within inches of the alley's property line.

Councilmember Ridgway stated she still has a problem with the position of the east wall. She stated she believes it is too close to the property line.

Moved by Councilmember Menard, seconded by Councilmember Newell, to adopt the Declaration between the City of Bayport and Noreen Theobald setting out conditions associated with constructing a fence within 4" of the City's right-of-way along North 5th Street and the right-of-way on the City's alley on Block 54.

Voting in favor: Councilmembers Menard and Newell.

Voting against: Councilmembers Kosmo, Ridgway and Schultz.

Motion fails.

Ken Hartung stated it appears Councilmembers are not comfortable with construction of the 42" high concrete block fence for Mr. Campisi's south end of the garage on the east property line to the south property line. He asked Councilmembers if they could support a motion which would approve a Declaration allowing the Theobald/Campisi fence to be constructed within 4" of the west right-of-way on North 5th Street and construct the north portion of the east wall within 4" of the property line running from the north property line to the garage.

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to approve the Declaration between the City of Bayport and Noreen Theobald, setting out the conditions associated with constructing a fence within 4" of the City's North 5th Street right-of-way and constructing a fence from the north property line to the north section of the garage within 4" of the City's alley right-of-way.

Voting in favor: Councilmembers Newell, Menard, Kosmo, Schultz and Ridgway.

Voting against: None.

**Discuss Adopting a Resolution Setting
a Public Hearing to Consider Vacating a Portion of**

**Discuss Adopting a Resolution Setting
a Public Hearing to Consider Vacating a Portion of
1st Avenue North**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-59

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ESTABLISHING A PUBLIC HEARING FOR MONDAY, JULY 3, 2000 AT 7:00 P.M. IN
BAYPORT CITY HALL COUNCIL CHAMBERS FOR THE PURPOSE OF
CONSIDERING VACATING A PORTION OF 1ST AVENUE NORTH IN THE CITY OF
BAYPORT, WASHINGTON COUNTY, MINNESOTA.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss BFI Waste and Recycling
Hauling Contract Renewal Proposal**

Moved by Councilmember Newell, seconded by Councilmember Kosmo, to approve
a contract between the City of Bayport and BFI to provide waste hauling and recycling
services to residential properties and the City Council specify the term of the contract for
four years, expiring on September 30, 2004 and that this contract proposal would not
have a cost of living increase adjustment for BFI's service fees until October 1, 2001.

Voting in favor: Councilmembers Newell, Kosmo, Schultz, Ridgway and Menard.

Voting against: None.

**Discuss Adopting a Motion Approving the
Developer's Agreement Between the City of Bayport
and Luckie, M.C., LLC (Ronn Hechter)**

Moved by Councilmember Menard, seconded by Councilmember Kosmo, to approve
the Developer's Agreement between the City of Bayport and Luckie, M.C., LLC and
authorize the Mayor and City Administrator to sign said document effective May 2, 2000.

Voting in favor: Councilmembers Newell, Menard, Ridgway, Schultz and Kosmo.

Voting against: None.

**Discuss Adopting a Resolution Authorizing
Brochman Blacktopping Company
to Complete Three Street Patches
for a cost of \$4,600.00**

Councilmember Newell introduced the following resolution and moved its adoption:
RES. 00-61

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING BROCHMAN BLACKTOPPING, INC., STILLWATER, MINNESOTA TO
COMPLETE THREE STREET PATCHES FOR THE CITY OF BAYPORT FOR A COST
NOT TO EXCEED \$4,600.00.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Authorizing Bergman Companies, Inc.
to Complete Thermal Patching and
Crack Filling for a Cost of \$8,950.00**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 00-62

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING BERGMAN COMPANIES, INC., EAU CLAIRE, WISCONSIN, TO
COMPLETE THERMAL PATCHING AND CRACK FILLING FOR THE CITY OF
BAYPORT FOR A COST NOT TO EXCEED \$8,950.00.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss a Adopting a Resolution
Approving the Plans and Specifications
for South Lakeside Drive Improvement Project
and Setting a Bid Date for Tuesday, June 27, 2000 at 1:00 p.m.**

Ken Hartung stated at the City Council Meeting of April 3, 2000, the Council held a Public Hearing to review the feasibility report on the public improvement project associated with South Lakeside Drive. He noted following the Public Hearing the City Council adopted a Resolution approving the feasibility report and ordering plans and specifications for alternate one and ordering the Lakeside Drive street and utility project. He noted Barry Peters has completed the plans and specifications associated with the improvement project and is here this evening to present the plans and specifications.

Barry Peters stated the South Lakeside Drive road is proposed to be constructed at 32' in width, consisting of bituminous surface and concrete curb and gutter. He noted South Lakeside Drive will end in a 45-foot radius cul de sac. He noted in his original estimates for construction costs of the project have been reduced from \$60,000.00 to \$57,000.00. He noted, however, that this includes construction costs only and does not include engineering, legal and administrative costs associated with the project.

Member Menard introduced the following Resolution and moved its adoption:

RES. 00-63

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING THE PLANS AND SPECIFICATIONS FOR SOUTH LAKESIDE DRIVE
IMPROVEMENT PROJECT AND SETTING A BID DATE FOR TUESDAY, JUNE 27,
2000 AT BAYPORT CITY HALL, 294 NORTH 3RD STREET AT 1:00 P.M. CDT.**

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss a Request by Nile Eckhoff
507 6th Street North
to Adjust his 1st Quarter Water Bill**

Ken Hartung stated the City has received a request from Nile Eckhoff, 507 6th Street North, for the City to consider adjusting his 2000 first quarter sewer bill. He noted the Eckhoff's have paid a water bill for using 188,000 gallons of water during the first quarter. The water bill was \$536.10. However, the large usage of water for the first quarter was attributed to a leak in a water pipe which extends from the Eckhoff house under a concrete slab to a porch faucet. Apparently, he noted, the shut-off to the pipe during the winter was not closed off. Consequently, when the pipe burst some time during the first quarter, it caused a significant amount of water to leak in the ground unknown to the Eckhoffs. Mr. Eckhoff is requesting the City Council to adjust his first quarter sewer rate to the average sewer rate for the residence because the water which leaked from the pipe went into the ground and not into the City's sewer.

Moved by Councilmember Newell, seconded by Councilmember Menard, to adjust the 2000 first quarter surcharge for Nile Eckhoff, 507 6th Street North to an amount of \$57.40.

Voting in favor: Councilmembers Schultz, Menard, Kosmo, Ridgway and Newell.

Voting against: None.

**Discuss Adopting a Resolution
Authorizing KMLR, Inc. Roofing and Sheet Metal
to Re-Roof and Repair the Fire Station Roof
for a Cost of \$13,066.00**

Member Kosmo introduced the following Resolution and moved its adoption:

RES. 00-64

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING RE-ROOFING AND REPAIR OF THE FIRE STATION ROOF BY KMLR,
INC., 7238 KNOX AVENUE SOUTH, RICHFIELD, MINNESOTA FOR A COST OF
\$13,066.00.

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

Jim Menard - aye
Linda Newell - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Approving the 2000 Memorandum of Agreement
for Curbside Recycling Grant Distribution**

Moved by Councilmember Menard, seconded by Councilmember Ridgway, to approve the 2000 Memorandum of Agreement for Curbside Recycling Distribution between Washington County and the City of Bayport and authorize the Mayor and City Administrator to sign said form.

Voting in favor: Councilmembers Menard, Ridgway, Schultz, Kosmo and Newell.

Voting against: None.

ADMINISTRATOR'S REPORT

2001 Budget Workshop

Ken Hartung, City Administrator, stated this is a courtesy reminder to Councilmembers and members of the public that the City Council will hold its first 2001 Budget Workshop on Thursday, July 6, 2000 in City Council Chambers at 7:00 p.m.

Discuss Workshop for Liquor License Fees

City Councilmembers decided to discuss the year 2001 liquor license fees at its budget workshop/City Council meeting of Thursday, July 6, 2000.

Planning Commission Meeting

This is a courtesy reminder to Councilmembers of the Planning Commission Public Hearings which have been scheduled for Monday, June 12, 2000 at 7:00 p.m. He noted Public Hearings consist of:

- 1) Consider issuing a Conditional Use Permit to bring in fill at 16 Point Road.
- 2) Consider issuing a Conditional Use Permit to allow expansion of the dry dock boat storage at 319 Lake Circle.

Tanker Truck Retro-fit with Class A Foam

One of the City's fire trucks is currently being retro-fitted with Class A foam consistent with the City Council direction at its May 3, 2000 Council Meeting.

ADJOURN TO A CLOSED MEETING

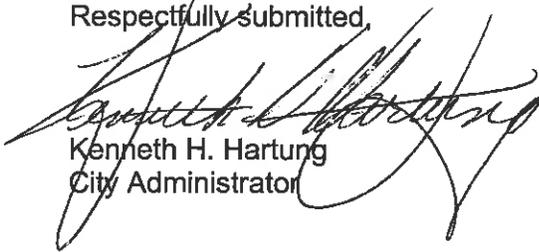
Moved by Councilmember Menard, seconded by Councilmember Kosmo, to adjourn the City Council Meeting and the City Council go into a closed meeting to discuss the status of employment of JoAnn McKean.

Voting in favor: Councilmembers Kosmo, Menard, Schultz, Newell and Ridgway.

Voting against: None.

The City Council adjourned to the closed meeting at 9:10 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator

Closed City Council Meeting
June 5, 2000

**CITY OF BAYPORT
CLOSED CITY COUNCIL MEETING
JUNE 5, 2000
9:15 P.M.**

CALL TO ORDER

Mayor Schultz called the closed City Council Meeting of June 5, 2000 to order at 9:15 p.m. and asked the City Administrator to take roll.

ROLL CALL

Members Present: Mayor Allen Schultz, Councilmembers Jim Menard, Jim Kosmo, Sharon Ridgway and Linda Newell.

Members Absent: None.

Others Present: Ken Hartung, City Administrator; Jim Lammers, City Attorney.

JOANN MCKEAN'S EMPLOYMENT STATUS

Ken Hartung indicated he had been advised on Thursday, June 1, 2000 that JoAnn McKean plead guilty to gross misdemeanor theft and the Washington County Courts convicted her of the same. He indicated on June 2, 2000, he sent a letter to JoAnn McKean indicating that he is placing her on unpaid suspension effective June 1, 2000 and that he recommended her employment with the City be terminated. He noted he sent a copy of the letter to Councilmembers reviewing applicable sections of the City's Code which dictates disciplinary action associated with the gross misdemeanor conviction. He indicated the Council has a choice of allowing Ms. McKean to resign, in which case she would receive payment for her accrued vacation time and payment for up to ½ of her sick leave, not to exceed 50 days. He noted the amount of vacation pay Ms. McKean is eligible to receive is \$1,895.45 and accumulated sick leave of a maximum of 50 days is \$6,268.00 for a total of \$8,163.45.

The City Council authorized the City Administrator to send a letter to JoAnn McKean stating they are willing to accept her resignation according to the terms outlined in the Separation Agreement Waiver and Release Form.

ADJOURN

Moved by Councilmember Menard, seconded by Councilmember Kosmo, to adjourn the closed City Council Meeting of June 5, 2000.

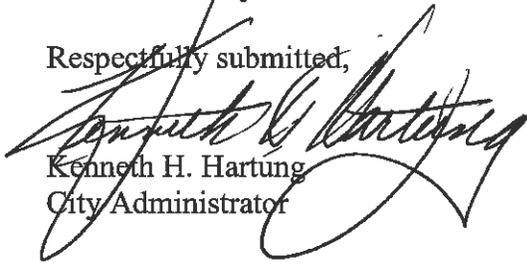
Voting in favor: Councilmembers Kosmo, Menard, Schultz, Ridgway and Newell.

Closed City Council Meeting
June 5, 2000

Voting against: None.

The City Council Closed Meeting was adjourned at 9:32 p.m.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Kenneth H. Hartung". The signature is written over the typed name and title.

Kenneth H. Hartung
City Administrator