

CITY OF BAYPORT
BAYPORT CITY COUNCIL MEETING MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
JULY 2, 2001
7:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Mayor Jim Kosmo called the regular City Council Meeting of July 2, 2001 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 Jim Kosmo, Councilmembers Jim Menard, Sharon Ridgway, and Jack Nyenhuis. Councilmember Allen Schultz arrived at 7:20 p.m.

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

CONSENT AGENDA

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-88

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING CONSENT AGENDA ITEMS A, B, C, AND D FROM THE JULY 2, 2001
CITY COUNCIL AGENDA.

- A. Approve the minutes of the regular City Council Meeting of June 4, 2001.
- B. Approve the bills as presented in the amount of \$393,310.45.
- C. Approve revenue as presented in the amount of \$401,497.66.
- D. Approve the building, plumbing and heating permits issued during the month of June 2001.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - absent

PUBLIC HEARINGS

City Administrator Ken Hartung stated no Public Hearings have been scheduled for this evening's meeting.

PETITIONS

Mayor Jim Kosmo 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 discuss the contract negotiations between the City of Bayport and its unionized Public Works and Police Department employees.

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.

I request a motion to hold a closed meeting for the purposes previously stated."

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis, to adopt a motion authorizing a closed meeting of the City Council immediately following this evening's regular City Council meeting for the purpose of discussing contract negotiations between the City and its unionized Public Works and Police Department employees.

Voting in favor: Mayor Kosmo, Councilmembers Menard, Nyenhuis and Ridgway.

Voting against: None.

Absent: Councilmember Schultz.

CITY ATTORNEY

City Attorney Jim Lammers stated he had nothing to add at this point in the agenda.

CITY ENGINEER

**Update of Fire Station Reconstruction
And Change Order Cost**

Barry Peters reviewed with the City Councilmembers changes which have been made to the original contract for reconstructing the fire station as follows:

- 1) Add a laundry tub in the small apparatus bay \$610.00

The original specifications called for a plastic laundry tub to be installed in the small apparatus bay. The fire department requested a cast iron laundry tub because there would be less chance for that fixture to crack or break while washing fire equipment.

- 2) Remove and replace the flammable waste trap \$3,719.00

The original architect specifications used the existing flammable waste trap. The Minnesota Health Department reviewed the plans and did not specify it needed to be replaced. However, when the Minnesota Health Department personnel made an inspection on site, they required the existing flammable waste trap be replaced with a new one.

- 3) Run conduit from the fire station to the sanitary manhole \$162.00

The sanitary sewer from the fire station flows out into a manhole located in the fire station driveway apron. The manhole is extremely shallow at about 3 ½' which subjects it to freezing in the wintertime. The contractor was required to insulate the manhole to minimize the possibility of freezing in the wintertime. As an extra precaution, electrical conduit has been run from the fire station to the manhole to facilitate electric heat in the manhole should the insulation not provide enough protection from freezing in the winter time.

- 4) Repair the water service at the floor slab \$1,132.00

During demolition of the fire station concrete floor, a water line fitting was damaged. The damage took place because the old concrete floor had actually been poured around the water line fitting. Because the floor was poured around the fitting, it was impossible for the contractor to know where the water line was located. Typically, there is a space required to be left between the concrete floor and a water line fitting.

- 5) Remove and replace the overhead door piers \$31,596.00

During demolition, it was discovered the five concrete block piers at the north entrance of the fire station had significantly deteriorated and were not structurally sound. It is theorized the original concrete block used for the piers may have been seconds or rejects. Consequently, it was necessary to replace the five concrete block piers to ensure the structural integrity of the building.

- 6) Additional core filled wall installations \$978.00

During construction, it was discovered there was no installation in the concrete wall on the west side of the building. To minimize heat loss, it was decided to insulate the west portion of the building along with the east side of the old portion of the fire station.

- 7) Retaining wall and landscaping the west side of the building \$11,304.00

An entrance door was installed on the west side of the fire station building. Because of the high grades on the west side of the building, it was necessary to install a retaining wall to hold back and stabilize the earth on the west side of the building, permitting an entrance to the west side of the fire station. A guardrail must also be installed to prevent individuals from falling off the retaining wall. The retaining wall also has to be installed to ensure proper water drainage to the north and south of the entrance door.

The total amount of change orders associated with the fire station reconstruction is \$49,501.00. The original contract amount was \$247,150.00.

City Engineer Barry Peters stated he expects the cost for the removal and replacement of the overhead door piers will come in under the estimated \$31,596.00.

Ken Hartung stated the City budgeted \$350,000.00 for the fire station reconstruction project. He noted even with the listed change orders, the City will be approximately \$53,000.00 under the approved budget for fire station remodeling. However, he noted engineering costs must still be added into the project cost.

DEPARTMENT HEADS

Ken Hartung stated he has nothing to report on department operations unless the City Council has specific questions related to a department's operation.

COUNCIL LIAISON REPORTS

Joint Cable Commission Meeting

Councilmember Sharon Ridgway stated the Cable Commission held its grand opening at its new facility at River Heights Plaza on June 20, 2001 from 3:00 p.m. to 8:00 p.m. She stated the Cable Commission held its regular monthly meeting on June 20, 2001 at 8:00 p.m. at the Cable Commission's access studio. She indicated items discussed at the Cable Commission meeting were as follows:

- 1) AT&T has sent out notices to homeowners with AT&T cable telling them their internet service name has been changed from Roadrunner to At Home High Speed.
- 2) New lighting has been installed for the access studio at the Joint Cable Commission's facility.

- 3) The Cable Commission was able to arrange taping the high school graduation, cabaret, and cap and gown ceremony.
- 4) New hours have been established for the access studio. Those hours are:
 - A) Monday and Friday 10:00 a.m. to 7:00 p.m.
 - B) Tuesday, Wednesday and Thursday 10:00 a.m. to 9:00 p.m.
 - C) Saturday 10:00 a.m. to 4:00 p.m.
- 5) A new security system has been purchased for a studio and access facility.
- 6) A budget committee has been appointed consisting of Gary Talbot, Lynae Byrne and Sharon Ridgway.

Councilmember Ridgway stated the next Cable Commission Meeting will be held on the 4th Thursday of July, Thursday, July 26, 2001 at 7:00 p.m. at the Cable Commission access studio at River Heights Plaza.

OLD BUSINESS

Ken Hartung stated there is no old business slated for this evening's meeting.

NEW BUSINESS

Mayor Kosmo stated he would like to deal with the Bayport Community Action League item first and asked Councilmembers if they objected to considering item 9 associated with a temporary on-sale liquor license for the Bayport Community Action League to be considered at this time in the Agenda.

No Councilmember objected.

**Discuss Adopting a Resolution
Approving a Temporary On-Sale
Liquor License for the Bayport Community
Action League for Saturday, August 25, 2001**

Ken Hartung stated the City has received a letter from Kathy Conley of the Bayport Community Action League requesting that the City of Bayport issue a temporary on-sale liquor license to the Bayport Community Action League. The liquor license, he stated, would be issued to permit the Bayport Community Action League to serve liquor for consumption during a street dance they are proposing to sponsor in the Greystone parking lot on Saturday, August 25, 2001. He noted the City's liquor ordinance allows the City Council to issue a temporary liquor license to a non-profit organization such as the Bayport Community Action League. He indicated the Bayport Community Action League held a street dance approximately four years ago and the City Council did issue a temporary liquor license for that activity. He stated the only requirement he would encourage the City Council to establish is that the BCAL erect a temporary fence across the front of the Greystone parking lot adjacent to Highway 95 to prevent people with alcoholic beverages from going off the site.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-89

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING AN ON-SALE LIQUOR LICENSE FOR THE BAYPORT COMMUNITY
ACTION LEAGUE FOR SATURDAY, AUGUST 25, 2001.

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
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - absent

**Discuss Adopting a Resolution
Authorizing Final Payment for the
1997 Tennis Court Improvement Project**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-90

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE FINAL PAYMENT TO TOWER ASPHALT FOR THE 1997 TENNIS
COURT RECONSTRUCTION PROJECT IN THE AMOUNT OF \$3,740.31.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - absent

Councilmember Allen Schultz arrived at the City Council Meeting at 7:20 p.m.

**Discuss Adopting a Resolution
Approving a Contract with HLB Tautges Redpath
to Complete the 2001 Audit**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-91

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPOINTING HLB TAUTGES REDPATH, LTD. TO CONDUCT THE CITY'S 2001
AUDIT FOR A COST NOT TO EXCEED \$19,9000.00.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting Ordinance No. 739
Establishing Rules and Regulations
for Hazelwood Cemetery**

Ken Hartung, City Administrator, stated the rules and regulations associated with Hazelwood Cemetery have been discussed at the City Council Meetings of April 2, 2001, May 7, 2001, the City Council Workshop of May 15, 2001 and a regular City Council Meeting of June 4, 2001. He noted discussions at the City Council meetings and workshops made it apparent the City needed to review and revise its cemetery regulations to accomplish the following:

- 1) Have in place a consistent burial procedure to ensure the easy and accurate location of burial remains for family members and City staff required to manage Hazelwood Cemetery.
- 2) Establish a grave identification procedure to help ensure the accurate identification of remains of individuals in a specific gravesite.
- 3) Put a procedure in place which will assist mortuary services and the family plan and carry out a proper interment of a relative's remains.

Ken Hartung stated since the City Council Meeting, he has worked to draft an Ordinance which would address these issues. He stated Mayor Jim Kosmo and he reviewed the regulations with Jim Bradshaw of Bradshaw Funeral Homes. He noted Mr. Bradshaw has a great deal of experience with cemetery rules and regulations and provided valuable insight about the procedures and/or operations which can enhance the effective operation of Hazelwood Cemetery. He stated Mr. Bradshaw is at this evening's meeting to provide comment on the proposed changes to the cemetery regulations.

Jim Bradshaw of Bradshaw Funeral Homes stated he believes the City Council is taking the right steps by proactively enacting cemetery regulations which will provide for an accurate identification of individuals buried at a particular gravesite along with assisting mortuary services and the family to carry out the proper interment of a loved one's remains. He noted in 1961 when he started his funeral services, cremations were approximately 16% of all burials. He noted today they account for 35% and by the year 2010, it is projected that they will account for 50% of all burials. He stated it is proper for the City to identify in its rules and regulations interment of cremain burials. He indicated it is important that cremain remains be enclosed in a concrete vault container. He stated on occasions, the relatives of the cremained individual may want to have a casket placed beneath the cremains. He stated without a concrete vault cremain container, it may be impossible to contain the cremain remains during installation of the casket. He stated to prevent a problem in that area, he is recommending the City Council consider

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adopting a rule as part of the ordinance which requires a concrete vault for cremains. He also indicated the Council should consider requiring a casket vault combination for infant burials. He stated casket vaults for infants are 12" x 24".

The Council agreed to include a requirement that infants buried will require a casket vault combination no larger than 12" x 24".

Councilmember Ridgway asked if a baby headstone is large enough to permit two names to be engraved on the headstone for cremains.

Ken Hartung stated a baby headstone is 10" x 20". He stated a single headstone is 12" x 24". He indicated a baby headstone is 2" narrower and 4" shorter than a single headstone. He stated this should permit enough room for two names to be placed on the baby headstone.

Jim Bradshaw also indicated the proposed ordinance sets out a systematic way for burials to take place. Noting heads of individuals must be positioned on the west side of the gravesite and that headstones must be located at the west side of the gravesite and read from the east.

Mr. Bradshaw also indicated that with the increased demand for cremain burials it may be advantageous for the City to think about constructing a cremain burial wall or monument in the cemetery. He stated the cremain burial wall takes up much less space than does a burial grave. In addition, it allows for easy identification of the individual remains.

Councilmember Menard asked Mr. Bradshaw if there are model cemeteries in the twin city area which Bayport may want to look at for guidance on its cemetery operation.

Mr. Bradshaw stated Lakewood Cemetery in Minneapolis and Roselawn Cemetery in St. Paul are the two premier cemeteries in the metro area.

Mayor Jim Kosmo conducted the first reading of Ordinance Number 739 of the City of Bayport, Washington County, Minnesota amending the municipal code by amending chapter 24, cemeteries, by amending section 24-6, general regulations, by amending paragraphs (k) through (o).

Moved by Councilmember Schultz, seconded by Councilmember Nyenhuis, to waive the requirement that the City Council conduct a second reading of Ordinance Number 739.

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

Voting against: None.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis to adopt Ordinance Number 739, an Ordinance of the City of Bayport, Washington County, Minnesota amending the municipal code by amending chapter 24, cemeteries, by amending section 24-6, general regulations, by amending paragraphs (k) through (o).

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

Voting against: None.

**Discuss Adopting a Motion
Appointing Mark Swenson as
Bayport Fire Captain**

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis, to appoint Mark Swenson as a Bayport Fire Department Captain effective July 2, 2001.

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

Voting against: None.

**Adopt a Resolution
Appointing Mike Bell as
Bayport's Fire Chief**

Ken Hartung, City Administrator, indicated Brad Carmichael assumed his role as Fire Chief on January 1, 1999. He noted Brad has indicated he intends to resign his position as a Bayport Fireman and Bayport Fire Chief effective Monday, August 6, 2001. He noted two candidates from within the Fire Department applied for the position of Fire Chief. He indicated the applicants were Scott Radke, Deputy Fire Chief, and Mike Bell, Assistant Fire Chief. He stated the firefighters voted amongst themselves to determine who they would recommend the City Council appoint as Fire Chief. He noted the vote totals between Scott Radke and Mike Bell were very close, indicating the firefighters have a tremendous amount of respect for both individuals. He stated the firefighters' final vote selected Mike Bell as their next Chief. He noted Mike Bell is an 11-year member of the Bayport Fire Department who has served as Fire Department Captain since 1997 and Assistant Fire Chief since January of 2001.

Mayor Kosmo stated the City of Bayport is extremely fortunate to have two candidates who are extremely well qualified for the position of Fire Chief and have an immense amount of respect from the firefighting personnel.

Councilmember Schultz introduced the following resolution and moved its adoption:

RES. 01-92

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPOINTING MIKE BELL AS THE CITY OF BAYPORT'S FIRE CHIEF EFFECTIVE
AUGUST 7, 2001.**

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
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Motion
Appointing Two Firefighters
to the Bayport Fire Department**

Ken Hartung stated Fire Chief Brad Carmichael and he are recommending the City Council appoint Allen Eisinger from West Lakeland and Pete DeCorsey from West Lakeland to the Bayport Fire Department effective April 16, 2001. He noted Mr. Eisinger and Mr. DeCorsey come to the Bayport Fire Department with a considerable amount of experience in firefighting. He noted Mr. Eisinger and Mr. DeCorsey were members of the Lower St. Croix Valley Fire Department for many years. He stated both gentlemen decided to serve with Bayport's Fire Department because our department provides fire service and rescue service to West Lakeland Township where both individuals live. He noted in the past the City Council has not officially appointed firefighters to their firefighting positions. However, the League of Minnesota Cities Insurance Trust Attorneys have recommended the City Council take formal action to appoint all fire department members. Therefore, he noted, he is recommending the City Council appoint Allen Eisinger and Pete DeCorsey to the Bayport Fire Department effective April 16, 2001.

Moved by Councilmember Menard, seconded by Councilmember Schultz, to appoint Allen Eisinger and Pete DeCorsey as members of the Bayport Fire Department effective April 16, 2001.

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

Voting against: None.

**Discuss Adopting a Resolution
Authorizing Change Order Number 3
Associated with the State of Minnesota
Storm Sewer Construction Project
In the Amount of \$188,334.75**

Ken Hartung stated at the May 7, 2001 City Council Meeting, the Council adopted Resolution 01-73 authorizing construction work associated with raising the section of Point Road within the State Storm Sewer construction zone to an elevation of 691'. He noted the City authorized raising Point Road to a minimum elevation of 691' because the State of Minnesota Department of Natural Resources Floodplain Regulations and the City of Bayport's Floodplain Ordinance require reconstructed or newly constructed roads within the Floodplain area to be raised to a minimum elevation of 691'. He noted the City has received a change order from the contractor and from the Engineer indicated the cost of raising that section of Point Road affected by the State Storm Sewer Project to an elevation of 691' will cost \$188,334.75. He noted the City Engineer and the contractor have submitted Change Order Number 3 associated with raising Point Road to 691' in elevation for City Councilmembers review.

Councilmember Menard introduced the following Resolution and moved its adoption:
RES. 01-93

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING CHANGE ORDER NUMBER 3 ASSOCIATED WITH THE STATE OF
MINNESOTA STORM SEWER CONSTRUCTION PROJECT IN THE AMOUNT OF
\$188,334.75.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss A Request by
Mayor Jim Kosmo to
Establish a Community Development
Advisory Committee**

Mayor Jim Kosmo stated the Andersen Corporation is considering sale of its property known as the Andersen West property on the west side of the City of Bayport to a residential developer. He noted the City of Bayport held a town meeting on Monday, June 25, 2001 at the Bayport Library for the purpose of explaining the Andersen Corporation's rationale for pursuing selling the property and to introduce community members to the potential residential developer. He noted town meetings serve as a good vehicle to bring out the many perspectives and different issues which residents have concerning the proposed residential development. However, he stated, it does not lend itself easily to coming to a consensus. Consequently, Mayor Kosmo stated he would like to have the City Council create a 15-member Community Development Advisory Committee consisting of 13 Bayport residents, an elected Baytown representative and a Baytown resident. He stated it is absolutely essential that this committee be composed of a broad cross-section of the community people with differing viewpoints. He stated no members of the City Council will be on the committee. He stated if the City Council approves the formation of the Community Development Advisory Committee, he will send a letter to all Bayport residents next week announcing the creation of the Community Development Advisory Committee and request that anyone who wishes to serve on the committee submit a letter to City Hall no later than 4:00 p.m. Friday, July 27, 2001. He stated in their application, residents will be asked to explain why they are interested in participating, what they will bring to the committee that will help them reach a decision, and if they can make a time commitment to attend at least two meetings per month for 6 months. He stated he is recommending the City Council approve the committee appointments at its August 6, 2001 Council Meeting. He stated to ensure the committee is able to function independently, the City will have to hire a professional facilitator to oversee the process, record keeping actions and help the group reach a consensus. During the committee process, the City will also ask Decision Resources, Inc. to conduct a community research survey to assist the committee in reaching final recommendations.

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Councilmember Nyenhuis asked how the selection process for the Community Development Advisory Committee would be made. He suggested all of the applications be made available to Councilmembers who then can proceed to individually rank applicants. Assignments to the committee could then be chosen from the highest-ranking individuals.

Mayor Kosmo stated using that method may result in an unbalanced constituency being appointed to the committee. He indicated it might be more appropriate for one or two Councilmembers to review the applicants and make a final recommendation to the City Council for appointments to the Community Development Advisory Committee.

Councilmembers determined a two person application review committee would be appointed consisting of Jack Nyenhuis and Jim Kosmo.

Rob McManus, 516 South 4th Street, stated he would like to see a process set up for appointing the members of the Community Development Advisory Committee which is transparent and that the criteria for selection is known by everyone.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis, to establish a 15 member Community Development Advisory Committee whose purpose shall be to review the development proposal by Contractor Property Developer's Company for the Andersen 245-acre site and that the Mayor shall send a letter out to all Bayport residents requesting anyone who wishes to serve on the committee submit a letter to City Hall no later than 4:00 p.m. on Friday, July 27, 2001.

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

Voting against: None.

Moved by Councilmember Schultz, seconded by Councilmember Menard, to appoint a Community Development Advisory Committee applicant's review panel consisting of Mayor Jim Kosmo and Councilmember Jack Nyenhuis and that said panel shall review all applicants for the Community Development Advisory Committee and forward to the City Council a list of applicants they are recommending be appointed to the Community Development Advisory Committee.

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

Voting against: None.

Moved by Mayor Kosmo, seconded by Councilmember Menard, to direct the City Administrator to complete the following:

- 1) Contact consulting firms which do facilitation work with large groups. Specifically contact the facilitator used by the City approximately two years ago during the Andersen tax reduction scenario.

- 2) Identify the sources for up to \$12,000.00 to fund the facilitator to work with the Community Development Advisory Committee and to fund a community survey by Decision Resources, Inc.

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

Voting against: None.

**Discuss Adopting a Motion Approving a
Request for Proposals to Complete a Feasibility
Study for the Lake Street Utility
And Street Improvement Project**

City Administrator Ken Hartung stated the City's Capital Improvement Program listed in the City's Comprehensive Plan identifies utility and street reconstruction programs to be constructed in the year 2003. The program stipulates the following improvements for South Lake Street:

- 1) Provide City water to residents of South Lake Street and provide a water stub to service the Girl Scout building and the City's beach house.
- 2) Provide sanitary sewer service to the City's Lake Street residents, the Girl Scout building and the City's beach house.
- 3) Reconstruct 2nd Avenue South from the Public Works Building to Lake Street and reconstruct Lake Street. The roads are to be constructed at a minimum elevation of 691' as prescribed by the City's Floodplain Ordinance.

Ken Hartung stated he has prepared a Request for Proposal to be submitted to engineering firms. Engineering firms are required to respond to the Request for Proposal specifically outlining how they would address the statement of work enclosed in the Request for Proposal. He indicated the Request for Proposal is included with the City Council Letter for Councilmembers review as Attachments A1 through A7. He noted Request for Proposals from engineering firms associated with the Lake Street project are to be completed and delivered to the City by no later than 1:00 p.m. on August 15, 2001.

Moved by Councilmember Menard, seconded by Councilmember Schultz, to approve the Request for Proposal to complete an engineering feasibility study for utility and street reconstruction of South Lakeside Drive and direct the City Administrator to advertise the Request for Proposal and send the Request for Proposal to selected engineering firms in the metro area.

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

Voting against: None.

**Discuss Adopting a Resolution
Authorizing the Minnesota State Storm Sewer
Connection to the Minnesota Correctional Facility**

Ken Hartung stated at the City Council Meeting of January 2, 2001, the City Council adopted Resolution 01-12 approving plans and specifications for the State of Minnesota Storm Sewer Project. He noted before bids were accepted, the Engineer and he changed the area to be included in Phase I to Phase II. He noted changes were made to shorten Phase I by 310' and lengthen Phase II by the same 310' that had been removed from Phase I. He noted the rationale for shortening Phase I was because staff and the City Engineer were unsure if there would be enough funding given the economic conditions to complete all of the initial area listed in Phase I. He noted the City Council approved plans and specifications for Phase I and Phase II and took competitive bids for both phases. He noted S.M. Hentges & Sons' bid for Phase I of \$1,232,700.69 was approximately \$200,000.00 less than the next lowest bid submitted by Barbarossa and Sons of \$1,428,948.00. With the low bid submitted by S.M. Hentges, along with change orders that were required for Phase I, there still appears to be more than enough money left from the state funding of \$2.68 million to permit the City to construct the storm sewer to the Minnesota Correctional Facility. Since the City took bids on both Phase I and Phase II, City Attorney Jim Lammers has indicated the City can enter into a contract with S. M. Hentges & Sons to complete that portion of Phase II which involves connecting the prison storm sewer system to the existing new installed storm sewer system. He noted the City Engineer has determined the cost of extending the storm sewer 310' to connect to the Minnesota Correctional Facility will cost \$104,799.50 based on the bid documents submitted by S.M. Hentges on Tuesday, February 6, 2001. Consequently, he noted, he is requesting the City Council consider adopting a Resolution awarding a contract between the City of Bayport and S.M. Hentges & Sons of Jordan, Minnesota for work associated with a portion of the State Storm Sewer Project Phase II for a price not to exceed \$104,799.50.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-94

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AWARDING A CONTRACT BETWEEN THE CITY OF BAYPORT AND S.M. HENTGES
& SONS, INC. OF JORDAN, MINNESOTA FOR WORK ASSOCIATED WITH A
PORTION OF THE STATE STORM SEWER PROJECT PHASE II FOR A PRICE NOT
TO EXCEED \$104,799.50.**

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

ADMINISTRATOR'S REPORT

Discuss Setting the October City Council Meeting for Tuesday, October 9, 2001 and the Planning Commission Meeting for Monday, October 15, 2001

Ken Hartung stated he will be attending the International City Manager's Conference which is slated for September 21, 2001 through September 26, 2001. He indicated he will be gone the week before the City Council Meeting of October. He asked the City Council if it would be possible to move the City Council Meeting back to Tuesday, October 9, 2001 and establish the Planning Commission Meeting for Monday, October 15, 2001.

Moved by Councilmember Menard, seconded by Councilmember Schultz, to establish the October City Council Meeting for Tuesday, October 9, 2001 and the Planning Commission Meeting for Monday, October 15, 2001.

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

Voting against: None.

Discuss Establishing a Workshop For the Easement on the Waterford-on-the St. Croix

Ken Hartung stated Sue Larimer, President of the Waterford on the St. Croix River Condominium Association stopped in at City Hall with a survey of the property. He indicated the survey shows that the ice road constructed south of the railroad tracks was not constructed on the easement granted to the City for the road. He stated Sue Larimer would like to discuss some options regarding the constructed road and the easement. He stated the condominium association would just as soon leave the road in its existing spot. He noted if the City were to do that, it would require the City to vacate the existing easement and establish a new easement where the road was actually constructed.

Moved by Councilmember Schultz, seconded by Councilmember Ridgway, to establish a City Council Workshop for Monday, September 17, 2001 at 7:00 p.m. in Bayport City Hall for the purpose of discussing the Waterford on the St. Croix Condominium Association easement.

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

Voting against: None.

Town Meeting

Ken Hartung stated as a courtesy reminder to residents of Bayport, the City Council will be holding another Town Meeting regarding the Andersen property at the Bayport Public Library on Wednesday, July 18, 2001 at 7:00 p.m.

ADJOURN

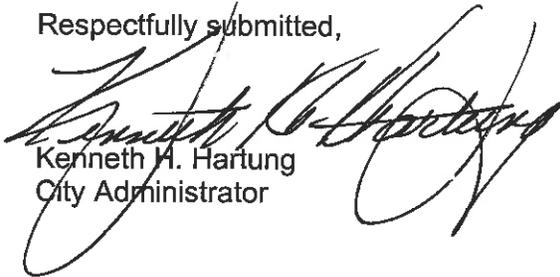
Moved by Councilmember Menard, seconded by Councilmember Schultz, to adjourn the City Council meeting of July 2, 2001 and convene into a closed City Council Meeting to discuss contract negotiations with the City Administrator regarding the Public Works and Police employee's unions.

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

Voting against: None.

The regular City Council meeting of July 2, 2001 was adjourned at 8:25 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator

CITY OF BAYPORT
BAYPORT CITY COUNCIL CLOSED MEETING MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
JULY 2, 2001
8:35 P.M.

CALL TO ORDER

Mayor Jim Kosmo called the Closed City Council Meeting to order at 8:35 p.m. and asked the City Administrator to take roll.

ROLL CALL

Members Present: Mayor Jim Kosmo, Councilmembers Jim Menard, Sharon Ridgway, Allen Schultz and Jack Nyenhuis.

Members Absent: None.

Others Present: Ken Hartung, City Administrator.

Mayor Jim Kosmo stated the purpose of this evening's meeting is to review with the City Administrator the contract proposals which have been forwarded to the City by the Teamster's Union on behalf of the Public Works employees and Law Enforcement Labor Services Union on behalf of the Police Officer employees.

Ken Hartung, City Administrator, stated he has received proposals from the Police Officer's union and Public Works' union.

Ken Hartung reviewed with City Councilmembers the Law Enforcement Labor Services contract proposal as it relates to wages, benefits and working conditions. Following discussion about the Law Enforcement Labor Services proposal for the contract between the City of Bayport and the Police Officer's union, the Council reviewed with the City Administrator, the City Council's position related to wages and benefits associated with the proposal from Law Enforcement Labor Services.

Ken Hartung, City Administrator, reviewed with Councilmembers, the Teamsters' contract proposal for Public Works employees related to wages, severance pay and benefits. Following discussion by the City Council and City Administrator, the City Council gave the City Administrator general direction on how to proceed with the issues related to the Public Works employees contract proposal.

Ken Hartung stated he will schedule a meeting with the Public Works employees' business agent and union steward and the Police Officers' business agent and union steward to review the contract proposals. Following the City Administrator's meeting with the union representatives, he is to report back to the City Councilmembers regarding the outcome of those discussions.

Bayport City Council Closed Meeting Minutes
July 2, 2001

ADJOURN

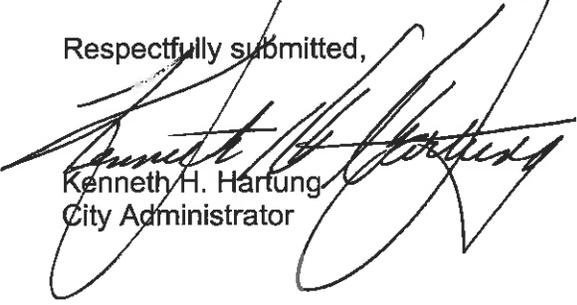
Moved by Councilmember Schultz, seconded by Councilmember Ridgway, to adjourn the closed City Council meeting of Monday, July 2, 2001.

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

Voting against: None.

The closed City Council meeting of July 2, 2001 was adjourned at 9:35 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator

CITY OF BAYPORT
BAYPORT CITY COUNCIL WORKSHOP MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
JULY 19, 2001
7:00 P.M.

CALL TO ORDER

Mayor Jim Kosmo called the City of Bayport City Council Workshop on the 2002 Proposed Budget to order at 7:02 p.m. and asked the City Administrator to call roll.

ROLL CALL

Members Present: Mayor Jim Kosmo, Councilmembers Sharon Ridgway, Allen Schultz, Jim Menard and Jack Nyenhuis.

Members Absent: None.

Others Present: Ken Hartung, City Administrator; Kathy MacDonald, Library Director; Beth Hogberg, Library Board President; and Jim Taylor, Director of Taxation, Andersen Corporation.

Mayor Jim Kosmo stated the purpose of this evening's meeting is to review the preliminary 2002 budget as submitted by the various City departments.

Ken Hartung stated the budget process began on June 4, 2001 with distribution of the budget manual to department heads and staff. On June 22, 2001, department heads were required to have submitted their budgets to the City Administrator for his review. He indicated as per City Council policy since 1992, all staff budget requests are forwarded to the City Council without any editing from administrative staff. He stated this evening, City staff is looking for direction from the City Council to determine what the Council's desire is related to levy limits and to discuss budget items or programs which should be reduced or reviewed. The next budget workshop is scheduled for Monday, August 20, 2001. He noted the City Council must set its preliminary levy at its Tuesday, September 4, 2001 meeting. He noted once the City Council has established a preliminary levy, the Council can reduce the levy at a later date, but cannot increase it. He noted, typically in December the City Council adopts the final levy. He indicated this year the State Legislature has eliminated the need for a Truth in Taxation meeting. However, he indicated, the staff recommendation is that we still make a formal presentation to the City Council and residents at the regular City Council meeting.

Ken Hartung then reviewed with City Councilmembers, significant Minnesota Legislative action in the year 2001. Those significant actions were as follows:

- 1) A significant reduction in property tax class rate.

The Minnesota Legislature significantly reduced the tax rate for residential homestead value homes above \$76,000.00. Current law requires the property tax

Bayport City Council Workshop Minutes
July 19, 2001

rate of 1.65% for houses exceeding \$76,000.00. Effective 2002, the new property tax rate on houses over \$76,000.00 will be 1%.

Commercial and industrial property also had a significant reduction in property tax rates. Commercial and industrial properties go from a current tax rate of 3.4% to 2% in 2002.

The net result of the reduced property tax rate for residential, commercial and industrial property in 2002 will be that the City's tax capacity will be significantly reduced. Consequently, to raise the same tax dollars in 2002 that the City now collects in 2001 will require the City to significantly increase its tax rate.

2) Significant loss in State aid.

The City, in 2001, collects from the State of Minnesota a homestead and agricultural credit aid in the amount of \$177,084.00. The Legislature has eliminated homestead and agricultural credit aid payments to the City. Consequently, the City will lose the entire \$177,084.00 in 2002. Local Government Aid is being increased from the 2001 total of \$100,832.00 to \$196,074.00 in 2002, which is an increase of \$95,242.00. However, with the elimination of the \$174,084.00 homestead and agricultural credit aid, even with the local government aid payment of \$196,074.00 in 2002, the City has a net reduction in the State of Minnesota contribution of \$81,842.00. Essentially, this means if the City wants to maintain the same revenue stream it had in 2001, it will be required to levy an additional \$81,842.00 to make up the loss in state aid.

3) Significant loss in tax increment payments.

The 2001 Legislature removed school districts from the property tax formula. Consequently, starting in 2002, local residential, commercial and industrial property owners will not pay any taxes toward school districts. In Bayport's case, most resident's tax bill is made up of 42% of school district taxes. Removal of the school districts from the property tax formula also removes the school district's tax contribution to the City's tax increment financing district. In 1991, the City established its tax increment financing district and sold a bond for \$1.825 million. The bond money of \$1.825 million was used to build a new water storage tank, rehabilitate the City's existing three wells and install an electronic SCADA system to monitor the City's well functions. He noted the \$1.825 million will not be paid off until 2016. The City has been using tax money generated from its tax increment district to pay the interest and principle on the bond in an amount of approximately \$138,000.00 per year. The tax increment district has allowed the City to capture taxes generated from the district that would normally go to the school district, the City, the County and the Metropolitan Council. In 2001, the City collected approximately \$153,779.00 from its tax increment district. That amount was more than adequate to pay the interest and principle on the bond of \$138,000.00. He noted, however, in the year 2002 the school district's portion of the tax increment will no longer be present. In addition, the City counting on other taxes coming to the district will be significantly reduced because of the Legislature reducing the tax rate on industrial, commercial and high value homes. Consequently, in the year 2002 the City will collect \$53,515.00 from its tax increment district, resulting in a loss of \$100,264.00 in 2002. This is far short of the \$138,000.00 required to make the principle and interest requirements on the bond. In 1991 when the City sold the

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\$1.825 million bond, it adopted a Resolution pledging the full faith and credit of the City to make interest and principle payments on the bond. Consequently, the City will be required to levy the additional \$100,264.00 in 2002 to ensure the City will continue to make payments on its bonds.

4) Levy limits imposed in 2002.

The Minnesota Legislature has adopted a law which prohibits cities with populations of 2,500 or more from raising their levy in 2002 above the 2001 levy. The Legislature made an exception permitting local governments to raise their levy to compensate for a loss in State Aid. Additionally, any amount that is required to be levied for debt retirement is also excluded from the levy limit requirement.

Ken Hartung then reviewed the proposed 2002 budget expenditures by department with the aid of the following table:

		ADOPTED 2001 BUDGET	PROPOSED 2002 BUDGET	BUDGET \$ INCREASE (DECREASE)	% INCREASE (DECREASE)
DEPARTMENT EXPENSES					
GENERAL FUND 101 OPERATING					
DEPT.					
41400	ADMINISTRATION	\$132,575	\$137,916	\$5,341	4.03%
43300	CEMETERY	\$7,536	\$7,738	\$202	2.68%
42200	FIRE	\$202,834	\$220,498	\$17,664	8.71%
41100	ELECTIONS	\$300	\$4,058	\$3,758	1252.76%
41200	MAYOR & COUNCIL	\$116,335	\$121,509	\$5,174	4.45%
41940	MUNICIPAL BUILDINGS	\$64,804	\$108,356	\$43,552	67.21%
43200	PARKS	\$104,982	\$93,430	(\$11,551)	-11.00%
41940	PLANNING & ZONING	\$66,810	\$69,644	\$2,834	4.24%
42100	POLICE	\$492,604	\$553,685	\$61,081	12.40%
41240	RECYCLING	\$9,302	\$8,349	(\$953)	-10.24%
43100	STREET	\$255,371	\$286,169	\$30,798	12.06%
43160	STREET LIGHTING	\$26,161	\$24,009	(\$2,152)	-8.23%
44100	UNALLOCATED	\$25,500	\$47,000	\$21,500	5.65%
	TAX STABILIZATION FUND	\$354,970	\$354,970	\$0	0.00%
	TOTAL: OPERATING	\$1,860,083	\$2,037,332	\$177,248	\$10.09%
44200	TRANSFER – DEBT SERVICE	\$180,000	\$180,000	\$0	0.00%
	TOTAL GENERAL FUND	\$2,040,083	\$2,217,332	\$177,248	9.16%
	DEBT LEVY		\$100,000	\$100,000	
	LIBRARY	\$101,178	\$115,808	\$14,630	14.16%
	TOTAL NEEDED	\$2,141,261	\$2,433,140	\$291,878	23%
	LESS: NON LEVY REVENUE	\$302,821	\$317,699	\$14,878	5.19%
	LESS: STATE AIDS	\$171,832	\$267,074	\$95,242	54.55%
	LESS: ANDERSEN CONTR.	\$443,939	\$443,939	\$0	0.00%
	LESS: H.A.C.A.	\$160,220	\$0	(\$160,220)	-90.50%
TOTAL	Levy 2001/Prop. Budget 2002	\$1,062,449	\$1,404,428	\$341,978	33.87%
	2001Levy/Prop. 2002 LEVY	\$1,062,449	\$1,244,291	\$181,842	

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REDUCTION NEEDED Due to 2002 Levy Limits

\$160,137

Ken Hartung then reviewed with Councilmembers the projected 2002 revenue budget.

FUND SOURCE	DESCRIPTION	ADOPTED 2001 BUDGET	PROP. 2002 BUDGET	BUDGET INCREASE (DECREASE)	% INCREASE (DECREASE)
101	GENERAL FUND				
31000	GENERAL PROPERTY TAXES	\$961,272	\$1,028,483	\$67,211	6.99%
31000	H.A.C.A.	\$160,220	\$0	(\$160,220)	-100.00%
33403	LPA	\$0	\$0	\$0	0.00%
31701	GRAVEL TAX	\$300	\$300	\$0	0.00%
32100	BUSINESS LICENSE – LIQUOR	\$7,000	\$7,000	\$0	0.00%
32200	NONBUSINESS LICENSE/PERMITS	\$1,000	\$1,500	\$500	50.00%
32210	BUILDING PERMITS	\$24,000	\$22,000	(\$2,000)	-8.33%
32220	PLUMBING PERMITS	\$1,500	\$1,500	\$0	0.00%
32230	HEATING PERMITS	\$2,500	\$2,500	\$0	0.00%
32240	ANIMAL FEES	\$300	\$300	\$0	0.00%
33100	ADMINISTRATIVE FEES	\$4,206	\$4,313	\$107	2.54%
33401	LOCAL GOVERNMENT AID	\$100,832	\$196,074	\$95,242	94.46%
33402	PERA RATE INCREASE AID	\$0	\$0	\$0	0.00%
33420	POLICE STATE AID	\$26,000	\$26,000	\$0	0.00%
33421	FIRE STATE AID	\$45,000	\$45,000	\$0	0.00%
34100	PLANNING & ZONING PERMITS	\$2,500	\$3,000	\$500	20.00%
34101	FIRE INSPECTIONS	\$5,500	\$5,500	\$0	0.00%
34105	MISC REVENUE	\$500	\$1,000	\$500	100.00%
34201	POLICE ACCIDENT REPORTS	\$200	\$250	\$50	25.00%
34202	FIRE CONTRACTS	\$130,815	\$130,815	\$0	0.00%
34780	PARK FEES	\$2,500	\$3,000	\$500	20.00%
34940	CEMETERY CHARGES	\$4,000	\$4,000	\$0	0.00%
35101	COURT FINES	\$35,000	\$40,000	\$5,000	14.29%
36101	SPECIAL ASSESSMENT COLL'D CO	\$3,000	\$2,400	(\$600)	-20.00%
36102	SPECIAL ASSESSMENT COLL'D CTY	\$3,500	\$2,800	(\$700)	-20.00%
36103	SPEC ASSMT PEN & INT COLL'D CO	\$0	\$0	\$0	0.00%
36104	SPEC ASSMT PEN & INT COLL'D CO	\$0	\$0	\$0	0.00%
36200	RECYCLING – REVENUE SHARING	\$6,000	\$7,797	\$1,797	29.95%
36210	INTEREST EARNINGS	\$30,000	\$35,000	\$5,000	16.67%
36220	RENTAL INCOME	\$9,000	\$9,724	\$724	8.05%
36230	DONATIONS	\$0	\$0	\$0	0.00%
36231	DONATIONS POLICE	\$0	\$0	\$0	0.00%

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36232	DONATIONS FIRE	\$0	\$0	\$0	0.00%
36233	GRANTS	\$0	\$0	\$0	0.00%
36234	ANDERSEN CONTRIBUTION	\$443,939	\$443,939	\$0	0.00%
36240	REFUNDS & REIMB PROF FEES	\$5,000	\$8,000	\$3,000	60.00%
36241	REFUNDS & REIMB POLICE	\$2,500	\$3,000	\$500	20.00%
36242	POST TRAINING REIMB	\$2,000	\$2,000	\$0	0.00%
36250	REFUND – INSURANCE	\$0	\$0	\$0	0.00%
36251	REFUND – WORK COMP	\$0	\$0	\$0	0.00%
37005	MISC REVENUE	\$0	\$0	\$0	0.00%
37300	SALE OF FIXED ASSETS	\$0	\$0	\$0	0.00%
37301	TRANSFER NSP/INT	\$20,000	\$20,000	\$0	0.00%
	TOTALS FUND 101	\$2,040,084	\$2,057,195	\$17,111	0.84%
	LEVY REVENUE				
	LEVY GEN. FUND REVENUE	\$961,272	\$1,028,483	\$67,211	6.99%
	LEVY DEBT SERV. REVENUE	\$0	\$100,000	\$82,089	
	LEVY LIBRARY REV.	\$101,178	\$115,808	\$14,630	14.46%
	TOTAL LEVY REV.	\$1,062,450	\$1,244,291	\$163,930	\$15.43%
	TOTAL REVENUE	\$2,141,262	\$2,273,003	\$131,741	6.15%

Ken Hartung then reviewed with Councilmembers significant increases or decreases in expenditures by general fund department as follows:

1) Administration	\$5,341.00
Salary and Benefits	\$3,371.00
Professional Services, OSHA Compliance	\$1,970.00
2) Cemetery	\$202.00
Engineering	\$52.00
Grave Opening	\$150.00
3) Elections	\$3,758.00
Did not have elections in 2001	
4) Fire	\$17,664.00
Wages and Benefits (Increased runs For medical)	\$5,800.00
Motor Fuels	\$ 600.00

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Insurance (new fire trucks)	\$7,745.00	
Class A Foam	\$2,600.00	
Capital Outlay Turn-out Gear	\$ 919.00	
5) Mayor and Council		\$5,174.00
Auditing	\$ 942.00	
Assessing (County)	\$ 300.00	
Postage (Newsletter)	\$ 625.00	
Printing (Newsletter)	\$1,780.00	
Insurance	\$ 577.00	
Office Furniture, Replace Admin. Cassette Recorder	\$ 650.00	
Conferences and Schools	\$ 300.00	
6) Municipal Building		\$43,552.00
Contract Service Planner, Building Pollution Assessment	\$40,000.00	
Utility Fuel & Electricity	\$ 3,552.00	
7) Parks		(\$11,551.00)
Decrease is because we didn't include baseball backstop		
8) Planning and Zoning		\$2,834.00
Comprehensive Consulting	\$2,834.00	
9) Police		
\$61,081.00		
Wages and Benefits	\$ 7,606.00	
Programs and Materials, Safety Camp, National Night Out	\$ 5,000.00	
Professional Legal	\$ 2,000.00	
Repair & Maintenance on vehicles 2 transmissions Emergency light repair	\$13,390.00	
Miscellaneous Community Projects Safety Camp and National Night Out, Halloween Safety	\$12,500.00	
Capital Outlay Vehicle 2002 Impala	\$19,651.00	
Operating Supplies	\$ 934.00	

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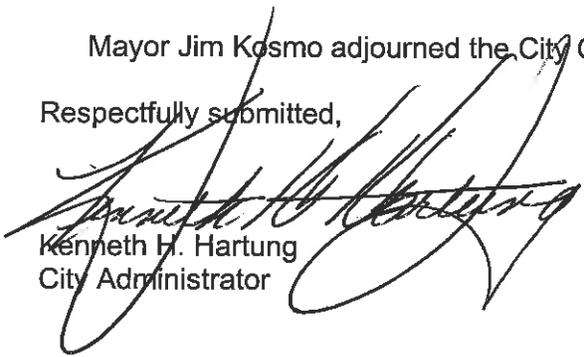
Councilmembers in terms of what, if any, kind of increase the Council would find acceptable for the general fund expenditures in the year 2002. He noted staff has included in the general fund budget as the Council has requested in the past, a tax stabilization fund of \$354,970.00.

There was consensus among Councilmembers that staff should go back into the general fund and reduce the budget so that the increase does not exceed 6%. The City Council directed the City Administrator to work with the department heads and present the City Council with a revised proposed 2002 budget at a City Council Workshop on August 20, 2001, which will reflect the proposed 2002 general fund expenditure budget which shall be held to an increase of no more than 6% over the adopted 2001 budget.

ADJOURN

Mayor Jim Kosmo adjourned the City Council Workshop at 8:36 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator

CITY OF BAYPORT
BAYPORT CITY COUNCIL MEETING MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
AUGUST 6, 2001
7:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Mayor Jim Kosmo called the City Council Meeting of August 6, 2001 to order and asked Councilmembers, staff and members of the public to join in pledging allegiance to the American flag.

ROLL CALL

Members Present: Mayor Jim Kosmo, Councilmembers Jim Menard, Sharon Ridgway, Jack Nyenhuis and Allen Schultz.

Absent: None.

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

CONSENT AGENDA

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-95

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING CONSENT AGENDA ITEMS A, B, C, AND D FROM THE AUGUST 6,
2001 CITY COUNCIL AGENDA.

- A. Approve the minutes of the regular City Council Meeting of July 2, 2001.
- B. Approve the bills as presented in the amount of \$321,734.14.
- C. Approve revenue as presented in the amount of \$1,140,869.71.
- D. Approve the building, plumbing and heating permits issued during the month of July 2001.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

PUBLIC HEARINGS

Discuss Adopting a Resolution Amending Woody's Bar & Grill Liquor License To Permit the Service and Consumption of Liquor in an Outside Service Area.

Mayor Kosmo opened the Public Hearing related to a request to amend Woody's Bar & Grill liquor license to permit the service and consumption of liquor in an outside service area and asked the City Administrator to read the Notice of Hearing.

Ken Hartung, City Administrator, stated Brad Smith, the owner of Woody's Bar & Grill, has signed a form waiving his right to a 60-day determination related to his request for a Conditional Use Permit and Parking Variance to permit outside seating and consumption of food and alcoholic beverages. He stated Mr. Smith has requested this item and the Conditional Use Permit and Parking Variance be tabled until such a time as he requests these items to be put before the City Council.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis, to cancel the Public Hearing associated with the request to amend Woody's Bar & Grill liquor license to permit the service and consumption of liquor in an outside area until such a time as Mr. Smith requests the City Council to reschedule the Public Hearing.

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

Voting against: None.

PETITIONS

Administer the Oath of Office To Fire Chief Mike Bell

Jim Kosmo stated it is his pleasure this evening to swear in new Fire Chief Mike Bell. He stated Mike was officially appointed Fire Chief at the last City Council meeting but Fire Chief Brad Carmichael and he requested he not assume his duties until August 6, 2001.

Mayor Jim Kosmo administered the Oath of Office to Fire Chief Mike Bell and congratulated him on his appointment to the position of Fire Chief.

Bill McManus Statement Regarding the Bayport Community Advisory Committee

Bill McManus, 516 S. 4th Street, stated he would like to apologize to the Mayor for the tone of his behavior at the last Community Meeting held in the City Library. He stated he believed the content of his message was correct but that the tone he used to

convey that message was not appropriate. He stated he understands this evening the City Council will be appointing membership of the Bayport Community Development Advisory Committee. He stated he hopes the membership on the Committee will not be driven in a certain direction. Rather, he hopes, the Committee will be able to determine its own direction. He also stated he hopes the facilitator is just a facilitator and she or he will not be setting a strict agenda. He stated he hopes the City Council will consider at some point adopting a Resolution which states that it will abide by the spirit of the Committee's recommendation. He noted he perceives the Bayport Community Development Advisory Committee as an opportunity for a group of people to work together in the spirit of cooperation.

Mayor Kosmo stated he accepts Mr. McManus' apology and appreciates his comments.

Linda Newell Presentation

Mayor Kosmo stated former Councilmember Linda Newell had indicated she had a desire to make a presentation this evening. He stated she is not here at this time, but may show up later.

National Night Out

Mayor Kosmo stated tomorrow evening, August 7, 2001, the City will hold its 3rd Annual National Night Out at Lakeside Park. He stated some of the activities which will be taking place at National Night Out are a petting zoo, moonwalk, hotdogs, National Guard helicopter, Minnesota Raptor Society will have birds, a home-run derby and a bike giveaway. He encouraged all residents to join staff and City Councilmembers at Lakeside Park from 6:00 p.m. to dusk tomorrow evening.

CITY ATTORNEY

City Attorney Jim Lammers stated he had nothing to add at this point in the agenda.

CITY ENGINEER

Ken Hartung stated he asked the City Engineer not to attend this evening.

DEPARTMENT HEADS

Ken Hartung stated he has nothing to report on department operations unless the City Council has specific questions related to a department's operation.

COUNCIL LIAISON REPORTS

Cable Commission

Councilmember Sharon Ridgway stated she attended the Cable Commission Meeting on Wednesday, July 25, 2001 at the Cable Commission Access Studio. She stated the new security system has been installed at the Cable Commission site. She also stated the Lumberjack Parade was broadcast live this year. She noted the Cable Commission approved a personnel ordinance and established a workshop to review job descriptions for Cable Commission employees. She stated the next Cable Commission meeting is scheduled for Wednesday, September 19, 2001 at 7:00 p.m. at the Access Studio in River Heights Plaza.

Library Board Meeting

Mayor Jim Kosmo stated he attended the last Library Board meeting indicating the Library Board Agenda was filled with administrative items. He noted, however, one important statistic came up at the Library Board meeting which indicated the Bayport Library circulation was up 22% last month.

OLD BUSINESS

Ken Hartung stated there is no old business slated for this evening's meeting.

NEW BUSINESS

Discuss an Application from Woody's Bar & Grill, 109 North 3rd Street, For the City to Consider Granting A Conditional Use Permit and Variance To Permit Outside Seating for Consumption Of Food and Alcoholic Beverages

Ken Hartung stated Brad Smith, the owner of Woody's Bar & Grill, has signed a waiver form indicating he waives his right for a determination within 60 days on his request for a Conditional Use Permit and Parking Variance to permit outside seating and consumption of food and alcoholic beverages. Consequently, he stated, Mr. Smith is requesting this item be tabled for consideration at this evening's meeting.

Moved by Councilmember Schultz, seconded by Councilmember Menard, to table discussion of an application for Woody's Bar & Grill, 109 North 3rd Street, for the City to consider granting a Conditional Use Permit and Parking Variance to permit outside seating for consumption of food and alcoholic beverages and that this item shall be tabled until such a time as Mr. Smith requests it to be placed back on the City Council Agenda.

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

Voting against: None.

**Discuss Adopting a Resolution
Establishing a Public Hearing to
Consider Vacating Part of 7th Street North**

Councilmember Schultz introduced the following resolution and moved its adoption:
RES. 01-96

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, SETTING A PUBLIC HEARING TO CONSIDER VACATING A PORTION OF NORTH 7TH STREET IN THE CITY OF BAYPORT FOR TUESDAY, SEPTEMBER 4, 2001 AT 7:00 P.M. IN BAYPORT CITY COUNCIL CHAMBERS.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Motion
Approving a Municipal License Agreement
Between the City of Bayport and
Ted & Becky Thompson, 410 South 4th Street**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-97

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, GRANTING A MUNICIPAL LICENSE TO THEODORE M. THOMPSON AND REBECCA A. THOMPSON, 410 SOUTH 4TH STREET, BAYPORT, MINNESOTA.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Approving an Agreement Between the
City of Bayport and
Contractor Property Developer's Company**

Ken Hartung stated the City Council has an Ordinance which requires all developers and private citizens to reimburse the City for all expenses associated with the review of a development proposal, variance application, conditional use permit application, rezoning application and vacation application. He noted Contractor Property Developer's Company has purchased the Andersen 245-acre industrial site and they will be making a presentation to the City regarding a number of development proposals. The review of those proposals will require staff time and consultant time. He stated the City Attorney and he believe it is important that the City have a formal agreement to guarantee reimbursement of those expenses. He noted City Attorney Jim Lammers has drafted an agreement which specifies Contractor Property Developer's Company of Minneapolis, Minnesota agrees to reimburse the City for its out of pocket expenses incurred regarding review of the proposed development of the 245-acre West property, including but not limited to, staff time, consultant, engineers and attorney's fees.

Councilmember Schultz introduced the following resolution and moved its adoption:
RES. 01-98

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING AN AGREEMENT BETWEEN THE CITY OF BAYPORT AND
CONTRACTOR PROPERTY DEVELOPER'S COMPANY OF MINNEAPOLIS,
MINNESOTA.

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
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Authorizing Fire Chief Mike Bell
To Use a City Vehicle**

Councilmember Menard introduced the following Resolution and moved its adoption:
RES. 01-99

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING FIRE CHIEF MIKE BELL TO USE A CITY VEHICLE.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo - aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Approving a Cemetery Deed for
William J. Huhnke**

Councilmember Schultz introduced the following resolution and moved its adoption:
RES. 01-100

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING A CEMETERY DEED FOR WILLIAM J. HUHNKE.

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
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Adopting a Proclamation Declaring
National Night Out 2001 on August 7, 2001**

Councilmember Schultz introduced the following resolution and moved its adoption:
RES. 01-101

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING A PROCLAMATION DECLARING NATIONAL NIGHT OUT FOR 2001
AUGUST 7, 2001.

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
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Authorizing the City of Bayport to Make
Application in Conjunction with the City of Oak Park Heights
And the City of Stillwater Police Departments to the
Minnesota Department of Public Safety of Traffic Safety
For Enrollment Within the Safe & Sober Community Project
For a Period of Time from October 1, 2001 through September 30, 2002**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-102

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE CITY OF BAYPORT'S POLICE DEPARTMENT TO MAKE AN
APPLICATION IN CONJUNCTION WITH THE OAK PARK HEIGHTS AND
STILLWATER POLICE DEPARTMENTS TO THE MINNESOTA DEPARTMENT OF
PUBLIC SAFETY OFFICE OF TRAFFIC SAFETY FOR ENROLLMENT WITHIN THE
SAFE & SOBER COMMUNITY PROJECT FOR THE TIME PERIOD OF OCTOBER 1,
2001 THROUGH SEPTEMBER 30, 2002.

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
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Authorizing Donating the
1997 Police Squad Car to
Northeast Metro 916 School District**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-103

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE DONATION OF THE CITY'S 1997 FORD CROWN VICTORIA
POLICE SQUAD CAR TO NORTHEAST METRO 916 SCHOOL DISTRICT.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Motion
Approving the Central St. Croix Valley Joint Cable
Commission and Valley Access Channels Budgets**

Moved by Councilmember Menard, seconded by Councilmember Schultz, to approve
the Central St. Croix Valley Joint Cable Communications Commission's operating and
capital revenue budgets for the fiscal year of 2002 and approve the Valley Access
Channel's operating and capital expenditure budgets for the fiscal year of 2002.

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

Voting against: None.

**Discuss Adopting Motions Establishing a
Bayport Community Development Advisory Committee
And Appointing the Bayport Community Development
Advisory Committee Membership**

Mayor Jim Kosmo stated he and Jack Nyenhuis met at City Hall on Wednesday, August 1st at 8:00 a.m. to review the 39 applicants for the Bayport Community Development Advisory Committee. He stated the City was very fortunate to receive a wide diversity of applicants for the positions. He stated he and Jack Nyenhuis have come up with a recommendation of 13 residents to be appointed to the committee which he believes represents a diverse character of the community. He stated they tried to balance it with males and females, with a result of having 7 males and 6 females. He noted the years of residency vary from 2 to 60 years. Mayor Kosmo then read off the applicant's names for appointment:

- 1) Eric Ackermann
- 2) Dick Beberg
- 3) Pamela Carmichael
- 4) Kathy Conley
- 5) Sheryl Corrigan
- 6) Kimberly Friedrich
- 7) Deb Gregory
- 8) Jackie Marti
- 9) William McManus
- 10) Jonathan Nowaczek
- 11) Ted Thompson
- 12) Ron Van Zee
- 13) David Walters

Councilmember Schultz stated he had some original concerns with some of the members on the committee, however, he has indicated he now supports the recommended list suggested by Mayor Kosmo and Councilmember Nyenhuis. He noted, however, he thinks it would be appropriate if committee members would refrain from making off the cuff remarks to the media. He believes the committee should focus its efforts on completing its charge.

Mayor Kosmo stated the charge of the Bayport Community Development Advisory Committee shall be to carefully examine land use concepts presented for the West Property by Contractor Property Developer's Company and advise the City Council if such plans will be:

- 1) Beneficial to the City as a whole;
- 2) Compatible with the existing community; and
- 3) Economically viable for the City.

He noted the Bayport Community Development Advisory Committee shall meet its first time on August 15, 2001 and as often thereafter as members determine to be necessary. He stated the Bayport Community Development Advisory Committee shall be advisory to the Bayport City Council and shall make a recommendation to the Bayport City Council regarding a land use proposal for the West Property no later than

January 18, 2002. He stated the Bayport Community Development Advisory Committee shall be abolished on January 19, 2002.

Councilmember Nyenhuis introduced the following resolution and moved its adoption:

RES. 01-104

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ESTABLISHING THE BAYPORT COMMUNITY DEVELOPMENT ADVISORY
COMMITTEE, ESTABLISHING ITS TASK AND ESTABLISHING A SUNSET DATE.**

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
Jack Nyenhuis – aye
Jim Kosmo – aye

Sharon Ridgway – aye
Allen Schultz – aye

Moved by Councilmember Nyenhuis, seconded by Councilmember Menard, to appoint the following individuals to the Bayport Community Development Advisory Committee:

- 1) Eric Ackermann, 539 N. 2nd Street
- 2) Dick Beberg, 237 N. 5th Street
- 3) Pamela Carmichael, 505 S. Lakeside Drive
- 4) Kathy Conley, 405 S. 5th Street
- 5) Sheryl Corrigan, 380 S. 4th Street
- 6) Kimberly Friedrich, 402 N. Maine Street
- 7) Deb Gregory, 223 S. 5th Street
- 8) Jackie Marti, 195 S. 6th Street
- 9) William McManus, 516 S. 4th Street
- 10) Jonathan Nowaczek, 424 S. 5th Street
- 11) Ted Thompson, 410 S. 4th Street
- 12) Ron Van Zee, 470 S. 5th Street
- 13) David Walters, 213 N. 5th Street

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

Voting against: None.

**Discuss Adopting a Resolution Approving
An Agreement Between the City of Bayport
And Lynch Associates to Facilitate the
Community Development Advisory Committee**

Councilmember Menard introduced the following resolution and moved its adoption:

RES. 01-105

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING AN AGREEMENT BETWEEN THE CITY OF BAYPORT AND LYNCH
ASSOCIATES OF MINNESOTA TO PROVIDE FACILITATION SERVICES
ASSOCIATED WITH THE BAYPORT COMMUNITY DEVELOPMENT ADVISORY
COMMITTEE FOR A COST OF \$15,785.00.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Motion Establishing
The Position of Fire Inspector/Fire Code Official**

Moved by Councilmember Schultz, seconded by Councilmember Menard, to approve
the position of Fire Inspector/Fire Code Official for the City of Bayport's Fire Department
effective August 7, 2001.

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

Voting against: None.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-106

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPOINTING BRAD CARMICHAEL AS FIRE INSPECTOR/FIRE CODE OFFICIAL FOR
THE CITY OF BAYPORT EFFECTIVE AUGUST 7, 2001.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Authorizing the Purchase of 2
Mobile Vision System – 7
In-car Video Systems for the Police Department**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-107

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE PURCHASE OF TWO MOBILE VISION SYSTEM – 7 IN-CAR
VIDEO SYSTEMS FROM MOBILE VISION, INC., 90 FANNY ROAD, BOOTEN, NEW
JERSEY, FOR AN AMOUNT NOT TO EXCEED \$6,980.00.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Authorizing the Purchase of 4 Tactical/Ballistic
Bulletproof Vests**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-108

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE PURCHASE OF FOUR BALLISTIC BULLETPROOF VESTS AND
FOUR BALLISTIC HELMETS FROM STREICHERS OF MINNEAPOLIS FOR A COST
OF \$4,845.00.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss a Request from the Community
Volunteer Service of the St. Croix Valley
For a Financial Contribution**

Moved by Councilmember Nyenhuis, seconded by Councilmember Menard, to
authorize a contribution to the Community Volunteer Service of the St. Croix Valley Area
in the amount of \$1,000.00 and that such contribution shall be funded by the Mayor &
Council miscellaneous community projects fund 41200-444.

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

Voting against: None.

**Discuss a Request for
Nominees for the
Brown's Creek Watershed District**

Consensus from the Councilmembers was that they not make a recommendation to the Washington County Board for an appointment to the Brown's Creek Watershed District.

**Discuss Adopting a Resolution
Authorizing the Purchase and Installation
Of Office Workstation Equipment
For the Police Department**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-109

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING THE PURCHASE OF WORKSTATION OFFICE EQUIPMENT FOR THE
BAYPORT POLICE DEPARTMENT FROM FACILITY SYSTEMS, INC. OF PLYMOUTH,
MINNESOTA FOR A COST OF \$1,738.74.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

**Discuss Adopting a Resolution
Approving a Labor Agreement Between the
City of Bayport and Law Enforcement
Labor Services, Inc. (Local No. 226)**

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-110

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING A LABOR AGREEMENT BETWEEN THE CITY OF BAYPORT AND LAW
ENFORCEMENT LABOR SERVICES, INC. (LOCAL NO. 226) EFFECTIVE JANUARY
1, 2002 THROUGH DECEMBER 31, 2004.

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

Jim Menard – aye
Jack Nyenhuis - aye
Jim Kosmo – aye

Sharon Ridgway - aye
Allen Schultz - aye

ADMINISTRATOR'S REPORT

Ken Hartung stated he had no reports this evening unless Councilmembers had specific questions of him.

ADJOURN

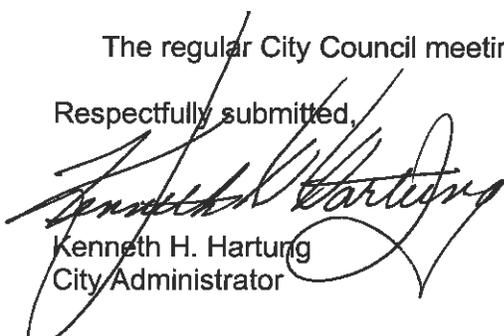
Moved by Councilmember Schultz, seconded by Councilmember Menard, to adjourn the City Council meeting of August 6, 2001.

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

Voting against: None.

The regular City Council meeting of August 6, 2001 was adjourned at 8:20 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator

CITY OF BAYPORT
BAYPORT CITY COUNCIL WORKSHOP MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
AUGUST 20, 2001
7:00 P.M.

CALL TO ORDER

Mayor Jim Kosmo called the City of Bayport City Council Workshop related to the 2002 Proposed Budget to order at 7:00 p.m. and asked the City Administrator to call roll.

ROLL CALL

Members Present: Mayor Jim Kosmo, Councilmembers Sharon Ridgway, Allen Schultz, and Jack Nyenhuis.

Members Absent: Jim Menard

Others Present: Ken Hartung, City Administrator; Kathy MacDonald, Library Director.

2002 PROPOSED BUDGET

Mayor Jim Kosmo stated the purpose of this evening's meeting is to review the preliminary 2002 budget. He indicated City Council held a workshop on July 19, 2001. He stated at the workshop, the City Council gave the City Administrators specific directions to reduce the overall general fund budget increase to 6% for the year 2002 as compared to 2001.

Ken Hartung, City Administrator, stated the budget process for the year 2002 began on June 4, 2001 with distribution of the budget manual to department heads and staff. He stated on June 22, 2001, department heads were required to have submitted their requested budgets to the City Administrator for distribution and City Council. He indicated on July 19, 2001, the City Council held a budget workshop in which the City Council reviewed the preliminary 2002 budget expenditures and revenue projections. He noted at the City Council workshop of July 19, 2001, the council directed the City Administrator and staff to reduce general fund budget expenditures to 6%. He indicated the purpose of this evenings meeting was to review the proposed 2002 revenue and expenditure budgets with the adjustments made by staff consistent with City Council direction. He stated the City Council must set its preliminary levy at its September 4, 2001 meeting. He noted after the City Council has established its preliminary levy, it can reduce the levy at some point before City Council sets its final levy in December. However, he noted, the City Council cannot increase the City's levy above what it establishes the levy at on September 4, 2001. He stated the City must establish its final levy in December of this year.

Ken Hartung stated, the State of Minnesota legislature made significant impacts during its 2001 session to property taxes and the city's 2002 budget. He noted, the significant actions taken by the Minnesota State Legislature in 2002 are as follows:

- 1) A significant reduction in property tax class rate.

The Minnesota Legislature significantly reduced the tax rate for residential homestead value homes above \$76,000.00. Current law requires the property tax rate of 1.65% for houses exceeding \$76,000.00. Effective 2002, the new property tax class rate on houses over \$76,000.00 will be 1%.

Commercial and industrial property also had a significant reduction in property tax rates. Commercial and industrial properties have been reduced from a current tax rate of 3.4% to 2% in 2002.

The net result of the reduced property tax rate for residential, commercial and industrial property in 2002 is that the City's tax capacity will be significantly reduced. Consequently, to raise the same tax dollars in 2002 that the City now collects in 2001 will require the City to significantly increase its tax rate.

- 2) Significant loss in State aid.

The City, in 2001, collected from the State of Minnesota a homestead and agricultural credit aid in the amount of \$177,084.00. The Legislature has eliminated homestead and agricultural credit aid payments to the City. Consequently, the City of Bayport will lose the entire \$177,084.00 in 2002. Local Government Aid is being increased from the 2001 total of \$100,832.00 to \$ 211,614.00 in 2002. This results in a net reduction in aid from the State of Minnesota in an amount of \$66, 302.00. Essentially this means that if the City wants to maintain the same revenue stream it had in 2001, it will require the City to levy an additional \$66,303.00 to make up for the state shortfall.

- 3) Significant loss in tax increment payments.

The 2001 Legislature removed school districts from the property tax formula. Consequently, starting in 2002, local residential, commercial and industrial property owners will not pay any taxes toward school districts on the local tax. In Bayport's case, the school district taxes made up of 42% of local residential, commercial and industrial property tax. Removal of the school districts from the property tax formula also removes the school district's tax contribution to the City's tax increment financing district.

In 1991, the City established its tax increment financing district and sold a bond for \$1.825 million. The bond money of \$1.825 million was used to build a new water storage tank, rehabilitate the City's existing three wells and install an electronic SCADA system to monitor and operate the City's well functions. The \$1.825 million will not be paid off until 2016. The City has been using tax money generated from its tax increment district to pay the interest and principle payments on the bond in an amount of approximately \$138,000.00 per year.

The tax increment district has allowed the City to capture taxes generated from the district that would normally go to the school district, the City, the County and the Metropolitan Council. In 2001, the City collected approximately \$153,779.00 from its tax increment district. That amount was more than adequate to pay the interest and principle on the bond of \$138,000.00. He noted, however, in the year 2002 the school district's portion of the tax increment will no longer be present. In addition, the City, County, and other taxes coming to the district will be significantly reduced because of the Legislature reducing the tax rate on industrial and commercial properties. Consequently, in the year 2002 the City will collect \$53,515.00 from its tax increment district, resulting in a loss of \$100,264.00 in 2002. This is far short of the \$138,000.00 required to make the principle and interest payments on the bond. In 1991 when the City sold the \$1.825 million bond, it adopted a Resolution pledging the full faith and credit of the City to make interest and principle payments on the bond. Consequently, the City will be required to levy the additional \$100,264.00 in 2002 to ensure the City will continue to make payments on its bonds.

4) Levy limits imposed in 2002.

The Minnesota Legislature has adopted a law which prohibits cities with populations of 2,500 or more from raising their levy in 2002 above the 2001 levy. The Legislature made an exception permitting local governments to raise their levy to compensate for a loss in State Aid. This means the City of Bayport can raise its levy above the 2001 levy to compensate for reduction in state aid in the amount of \$66, 302.00. Additionally, the City will be able to levy any amount that is required to service the city's debt account. This means the city can levy the additional \$100, 263.00 required to insure the City can make bond payments on its tax increment payments.

Ken Hartung then reviewed the cuts which have been recommended by staff to reduce the general fund budget to an increase of 6% with the aid of the following table.

**City of Bayport
Significant Budget Cuts
To Bring General Fund
To 6% Increase For The
2002 Budget**

<u>Department/Item Description</u>	<u>Reduction</u>
Fire	
Transfer Out – Truck Replacement Fund	\$ 5,500.00
Municipal Building	
Contract Services – Planer Bldg. Site Pollution Study	\$37,900.00
Capital Outlay - City Hall Voice Mail	\$ 9,000.00

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Police

Repair & Maintenance -- Vehicles	\$12,390.00
Dues & Memberships	\$ 185.00
Misc. Community Projects	\$12,000.00
Capital Outlay -- Vehicle	\$20,151.00

Streets

Contract Services	\$ 4,600.00
Operating Supplies	\$ 498.00
Repair/Maint. Streets	\$ 400.00
Sealcoating Sidewalks & Curbs	\$15,000.00

TOTAL CUTS \$92,873.00

Ken Hartung then reviewed the proposed 2002 budget expenditures contrasted with the adopted 2001 budget expenditures with the aid of the following table.

	ADOPTED 2001 BUDGET	ADJUSTED 2002 BUDGET	BUDGET \$ INCREASE (DECREASE)	% INCREASE (DECREASE)	
DEPARTMENT EXPENSES					
DEPT. GENERAL FUND 101 OPERATING					
41400	ADMINISTRATION	\$132,575	\$141,390	\$8,816	6.65%
43300	CEMETERY	\$7,536	\$7,738	\$202	2.68%
42200	FIRE	\$202,834	\$214,998	\$12,164	6.00%
41100	ELECTIONS	\$300	\$4,058	\$3,758	1252.76%
41200	MAYOR & COUNCIL	\$116,335	\$121,509	\$5,174	4.45%
41940	MUNICIPAL BUILDINGS	\$64,804	\$62,396	(\$2,408)	-3.72%
43200	PARKS	\$104,982	\$94,298	(\$10,684)	-10.18%
41940	PLANNING & ZONING	\$66,810	\$70,554	\$3,744	5.60%
42100	POLICE	\$492,604	\$519,851	\$27,247	5.53%
41240	RECYCLING	\$9,302	\$8,454	(\$848)	-9.12%
43100	STREET	\$255,371	\$272,006	\$16,635	6.51%
43160	STREET LIGHTING	\$26,161	\$24,009	(\$2,152)	-8.23%
44100	UNALLOCATED	\$25,500	\$73,732	\$48,232	12.68%
	TAX STABILIZATION FUND	\$354,970	\$354,970	\$0	0.00%
	TOTAL: OPERATING	\$1,860,083	\$1,969,963	\$109,880	5.91%
44200	TRANSFER -- DEBT SERVICE	\$180,000	\$178,578	(\$1,422)	-0.79%
	TOTAL GENERAL FUND	\$2,040,083	\$2,148,541	\$108,458	5.32%
	DEBT LEVY		\$101,422	\$101,422	
	LIBRARY	\$101,178	\$115,808	\$14,630	14.46%
	TOTAL NEEDED	\$2,141,261	\$2,365,771	\$224,510	10.48%

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	LESS: NON LEVY REVENUE	\$302,821	\$317,699	\$14,878	4.91%
	LESS: STATE AIDS	\$171,832	\$282,614	\$110,782	64.47%
	LESS: ANDERSEN CONTR.	\$443,939	\$537,318	\$93,379	21.03%
	LESS: H.A.C.A.	\$160,220	\$0	(\$160,220)	-100.00%
TOTAL	Levy 2001/Prop. Budget 2002	\$1,062,449	\$1,228,140	\$165,690	15.60%
	2001Levy/Prop. 2002 LEVY	\$1,062,449	\$1,228,140	\$165,691	15.60%

Ken Hartung then reviewed the proposed 2002 Revenue Budget compared to the adapted 2001 revenue budget with the aid of the following table.

DESCRIPTION	ADOPTED	PROPOSED	BUDGET	%
	2001 budget	2002 BUDGET	INCREASE (DECREASE)	INCREASE (DECREASE)
GENERAL PROPERTY TAXES	\$961,272	\$1,010,910	\$49,638	5.16%
H.A.C.A	\$160,220	\$0	-\$160,220	-100.00%
GRAVEL TAX	\$300	\$300	\$0	0.00%
BUSINESS LICENSE-LIQUOR	\$7,000	\$7,000	\$0	0.00%
NONBUSINESS LICENSE/PE	\$1,000	\$1,500	\$500	50.00%
BUILDING PERMITS	\$24,000	\$22,000	-\$2,000	-8.33%
PLUMBLING PERMITS	\$1,500	\$1,500	\$0	0.00%
HEATING PERMITS	\$2,500	\$2,500	\$0	0.00%
ANIMAL FEES	\$300	\$300	\$0	0.00%
ADMINISTRATIVE FEES	\$4,206	\$4,313	\$107	2.54%
LOCAL GOVERNMENT AID	\$100,832	\$211,614	\$110,782	109.87%
POLICE STATE AID	\$26,000	\$26,000	\$0	0.00%
FIRE STATE AID	\$45,000	\$45,000	\$0	0.00%
PLANNING & ZONING PERMIT	\$2,500	\$3,000	\$500	20.00%
FIRE INSPECTIONS	\$5,500	\$5,500	\$0	0.00%
MISC. REVENUE	\$500	\$1,000	\$500	100.00%
POLICE ACCIDENT REPORTS	\$200	\$250	\$50	25.00%
FIRE CONTRACTS	\$130,815	\$130,815	\$0	0.00%
PARK FEES	\$2,500	\$3,000	\$500	20.00%
CEMETERY CHARGES	\$4,000	\$4,000	\$0	0.00%
COURT FINES	\$35,000	\$40,000	\$5,000	14.29%
SPECIAL ASSESSMENTS COL	\$3,000	\$2,400	-\$600	-20.00%
SPECIAL ASSESSMENT COLL	\$3,500	\$2,800	-\$700	-20.00%
RECYCLING-REVENUE SHARING	\$6,000	\$7,797	\$1,797	29.95%
INTEREST EARNINGS	\$30,000	\$35,000	\$5,000	16.67%
RENTAL INCOME	\$9,000	\$9,724	\$724	8.05%
ANDERSEN CONTRIBUTION	\$443,939	\$537,318	\$93,379	21.03%
REFUNDS & REIM	\$5,000	\$800	\$3,000	60.00%
REFUNDS & REIM POLICE	\$2,500	\$3,000	\$500	20.00%
POST TRAINING REIMBURSE	\$2,000	\$2,000	\$0	0.00%

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TRANSFER NSP/INT	\$20,000	\$20,000	\$0	0.00%
TOTALS FUND 101	\$2,040,084	\$2,148,541	\$108,457	5.32%
LEVY REVENUE STATE AIDS	\$171,832	\$282,614	\$110,782	64.47%
ANDERSEN CONTR.	\$443,939	\$537,318	\$93,379	21.03%
NON-LEVY REVENUE	\$302,821	\$317,699	\$14,878	4.91%
LEVY GEN. FUND REVENUE	\$961,272	\$1,010,910	\$49,638	5.16%
LEVY DEBT SERVICE REV.	\$0	\$101,422	\$101,422	
LEVY LIBRARY REVENUE	\$101,178	\$115,808	\$14,630	14.46%
TOTAL LEVY REVENUE	\$1,062,450	\$1,228,140	\$165,690	15.60%
TOTAL REVENUE	\$2,141,262	\$2,365,771	\$224,509	10.48%

Ken Hartung then reviewed the Andersen agreement formula which determines the amount of property tax and cash contribution the Andersen Corporation will make in the year 2002. The Andersen tax and cash contribution for the year 2002 is estimated to be \$715,457.00. Of that he indicated approximately, \$176,448.00 will be paid by Andersen property taxes in 2002 and \$537,009.00 will be paid as a cash contribution.

Mayor Jim Kosmo stated he would like to see the unallocated portion of the budget cut by \$1,725.00.

The City Council directed city staff to reduce the unallocated budget by \$1,725.00. Anne McManus, 516 S. 4th Street stated, she would like the city council to consider setting aside some money in the 2002 budget for the construction and installation of a new information sign at city hall. She stated approximately three years ago, she had asked the City Council to install an information sign which would communicate meetings held at Bayport City Hall. She stated at that time the estimated cost of putting in a information sign was approximately \$3,300.00. She noted because of work related responsibilities she has not been able to complete fund raising in the private sector. However, she stated, she would like to see the City Council keep this project in mind as they are working on the budget. She believes it is important for citizens to have an information sign at City Hall which will communicate meeting times, dates, and contents to its residents.

Councilmember Jack Nyenhuis stated he also was one of the original people requesting that the sign be installed.

Council indicated that they would keep Ms. McManus' request in mind as they develop the 2000 budget and future budgets.

Ken Hartung stated based on the adjustments made by the City Council at this evenings meeting, the levy for 2002 is proposed at \$1,228,140.00 which is an increase of \$165,690.00 over the 2001 adopted levy of \$1,062,449.00.

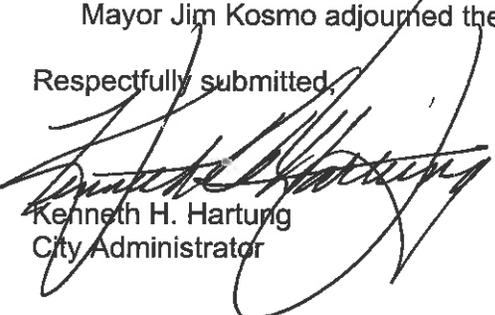
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regular City Council meeting and probably would not take place until the beginning of the next budget year in 2002.

ADJOURN

Mayor Jim Kosmo adjourned the City Council Workshop at 8:24 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator

BAYPORT/OAK PARK HEIGHTS
STRATEGIC PLANNING COMMITTEE MEETING MINUTES
OAK PARK HEIGHTS CITY HALL
AUGUST 23, 2001
7:00 P.M.

CALL TO ORDER

Chairman David Beaudet, Mayor of Oak Park Heights, called the Bayport/Oak Park Heights Strategic Planning Committee Meeting to order in the Oak Park Heights City Hall Conference room at 7:00 p.m.

ROLL CALL

Members Present: David Beaudet, Mayor Oak Park Heights
Mary McComber, Oak Park Heights Councilmember
Jack Doerr, Oak Park Heights Councilmember
Jim Kosmo, Bayport Mayor
Kim Kamper, Acting Oak Park Heights City Administrator
Jay Johnson, Oak Park Heights Public Works Director
Ken Hartung, Bayport City Administrator.

Absent: None.

**DISCUSS OAK PARK HEIGHTS COMMUNITY OPEN HOUSE TO DISCUSS
BAYPORT TRUCK LOCATION AT OAK PARK HEIGHTS**

David Beaudet, Mayor of Oak Park Heights, stated the City of Oak Park Heights is having a Community Open House on Tuesday, August 28, 2001 from 6:30-7:00 p.m. He stated the purpose of the open house is to afford Oak Park Heights residents the opportunity to discuss the possibility of locating a Bayport Fire Truck at the Oak Park Heights Municipal Facilities.

Mary McComber, Oak Park Heights Councilmember asked if locating a fire truck at Oak Park Heights Municipal Facility would require a fire whistle to be installed.

Ken Hartung, Bayport City Administrator, indicated a fire whistle is not required at the Oak Park Heights Municipal Facility. He stated it is up to the City of Oak Park Heights to determine whether or not a siren is required.

Jack Doerr, Oak Park Heights Councilmember, stated he did not see the need for a fire whistle because all fire personnel have pagers which give them the information they require to make an effective response to emergency calls.

Mary McComber, Oak Park Heights Councilmember asked how many fire personnel members are on the fire department. She also asked how many fire personnel people live in the City of Oak Park Heights.

Ken Hartung, Bayport City Administrator stated there are 23 firefighters active in Bayport's Fire Department. He noted, approximately three to four firefighters live in the City of Oak Park Heights or are in close proximity to Oak Park Heights.

Mary McComber asked which fire truck would be located at Oak Park Heights Municipal Building if Oak Park Heights decided to have a Bayport Fire Truck located at the Municipal Facilities.

Ken Hartung stated that would be up to the fire department to decide which truck would be best suited for the medical and emergency fire calls typically received from the City of Oak Park Heights.

Jack Doerr, Oak Park Heights Councilmember, asked if the fire truck would have the equipment necessary for emergency medical calls.

Ken Hartung stated the fire truck would have emergency medical call equipment. He noted however, the exact composition of the equipment on the truck would be determined by the fire department.

Committee members also discussed whether or not a siren would have to be initiated by a fire truck every time it left for an emergency run at Oak Park Heights.

Ken Hartung, Bayport City Administrator stated it is really up to the Fire Department to have their individual drivers to determine what lights and/or sirens must be engaged for public safety reasons while they are making a response.

David Beaudet, Oak Park Heights Mayor stated it is important for the fire department to address the logistic issues which have been brought up at this evenings meeting.

Ken Hartung, Bayport City Administrator stated the important thing for Oak Park Heights City Council to focus on is whether or not it makes good public policy for Oak Park Heights to have one or two Bayport fire trucks located at their Municipal Facility. He stated once Oak Park Heights City Council has made a decision to locate one or two Bayport fire trucks at the Municipal Facility, it will then be necessary for the Bayport Fire Department and their personnel to work out the logistics associated with the operation of the fire trucks at Oak Park Heights Municipal Facility.

DISCUSS FIRE INSPECTOR/CODE OFFICIAL AND AGREEMENT

Ken Hartung stated the Bayport City Council at its meeting approved a new part-time position for the City of Bayport known as Fire Inspector/Code Official. He also noted that Brad Carmichael, Former Fire Chief, has now been appointed to this position. He noted the essential functions of this position include: Review billing plans to ensure they conform with applicable fire code requirements along with serving as the authority having jurisdiction in areas related to fire code review and enforcement. He noted Mr. Carmichael as Fire Inspector/Code Official will review plans from both Oak Park Heights and Bayport to ensure the sprinkler systems conform with applicable fire codes. Additionally, Mr. Carmichael will provide the required inspections during construction of fire sprinkler systems in either residential, commercial, or industrial projects. He indicated the City of Oak Park Heights and Bayport have drafted a agreement which

specifies the terms and conditions for the City of Bayport to provide fire code and inspection services to the City of Oak Park Heights. He noted, the fee for fire sprinkler plan review and inspection has been established at a minimum of \$75.00 or 2% of the estimated cost of construction of the fire suppression system which is proposed for a permanent application. He noted the agreement also specifies the City of Bayport and the City of Oak Park Heights will split the revenue associated with permit fees for fire suppression systems. He indicated the Oak Park Heights City Council approved the agreement for fire code and inspection services at the last City Council Meeting. He noted, this agreement will be placed on the Bayport City Council Meeting Agenda for September 4, 2001 for Bayport City Councilmember review. He reviewed with the Strategic Planning Committee Members, a fire inspector/fire code official review form. He noted the review form indicates the members who were in attendance when the fire inspector was reviewing the plan along with comments the fire inspector may have relative to the fire sprinkler plans. He indicated every planning review will have fire inspector report form which will become part of the building inspection file.

Ken Hartung noted the City of Bayport and Oak Park Heights will utilize the operating policies and fee structure outlined in the fire inspection agreement at least for the rest of this calendar year. He noted after both City's have a track record regarding the revenue and expenses associated with fire code planning review and inspection services, staff members may be cutting back to both councils to make some changes to the agreement.

DISCUSS FUNDING FOR THE PURCHASE OF AN INFRA-RED CAMERA

Ken Hartung stated the Bayport Fire Department has taken the initiative to actively seek donations to fund the purchase of a hand-held thermal imaging camera. He stated the camera can be used to detect individuals or animals in a burning structure. Additionally, he stated the thermal imaging unit can be used to provide fire fighting personnel with fire temperature data from various points within a burning structure. He stated the cost of purchasing the unit was \$22,500.00. Indicated the City sent out letters requesting donations to the Bayport American Legion, Stillwater American Legion Club, Veterans of Foreign Wars Club 323 Stillwater, WalMart of Stillwater, the Fraternal Eagles Association of Stillwater, the Stillwater Elks Lodge 179, and Exel Energy. In order to date, the City has received the following donations:

- 1) The Stillwater Veterans of Foreign Wars - \$200.00
- 2) Stillwater American Legion Post - \$4,800.00
- 3) Dahl-Tach Inc. Stillwater - \$50.00
- 4) WalMart Foundation - \$1,000.00
- 5) The St. Paul Foundation - \$7,000.00
- 6) The Fraternal Order of Eagles Stillwater - \$5,000.00

Jack Doerr, Oak Park Heights Councilmember indicated the Bayport Fire Department states in their letter that they currently have \$2,500.00 towards the

purchase of a camera. He noted, a fair amount means \$8,650.00 would have to be raised to purchase the camera.

Ken Hartung stated he will be contacting Xcel Energy to see if they are interested in making a contribution.

Jim Kosmo, Mayor of Bayport, stated he believes the City of Bayport would be willing to contribute \$3,000.00 toward the purchase of the infra-red camera.

David Beaudet, Mayor of Oak Park Heights, stated he believes the City of Oak Park Heights would be willing to contribute up to \$3,000.00 toward the purchase of the infra-red camera.

Ken Hartung, Bayport City Administrator, stated he will be contacting Xcel Energy regarding a donation for the infra-red camera. Once he has gotten a commitment from Xcel Energy he will be in a better position to indicate how much the cities may have to contribute toward the purchase of the infra-red camera.

SET NEXT MEETING

Moved by Jack Doerr, second by David Beaudet to establish the next Strategic Planning Commission Meeting for the Cities of Oak Park Heights and Bayport on October 24, 2001, at 7:00 p.m. at Bayport City Hall.

Voting in favor, David Beaudet, Mary McComber, Jack Doerr and Jim Kosmo.

Voting against – none.

ADJOURNED

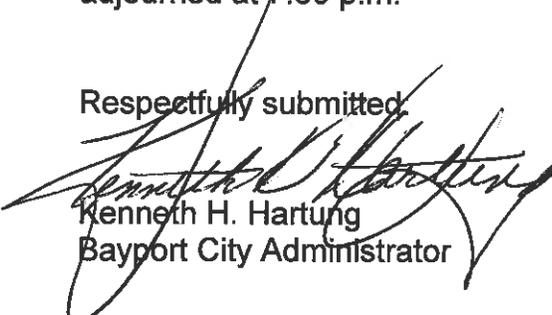
Moved by Mary McComber, second by Jack Doerr to adjourn the Bayport/Oak Park Heights Strategic Planning Commission Meeting.

Voting in favor, David Beaudet, Mary McComber, Jack Doerr and Jim Kosmo.

Voting against – none.

The Bayport/Oak Park Heights Strategic Planning Commission Meeting was adjourned at 7:50 p.m.

Respectfully submitted,



Kenneth H. Hartung
Bayport City Administrator

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September 4, 2001

CITY OF BAYPORT
BAYPORT CITY COUNCIL MEETING MINUTES
BAYPORT CITY HALL COUNCIL CHAMBERS
SEPTEMBER 4, 2001
7:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Protem Mayor Allen Schultz called the City Council Meeting of September 4, 2001 to order and asked Councilmembers, staff and members of the public to join in pledging allegiance to the American flag.

ROLL CALL

Members Present: Protem Mayor Allen Schultz, Councilmembers Jim Menard, Sharon Ridgway and Jack Nyenhuis.

Absent: Mayor Jim Kosmo.

Others Present: Ken Hartung, City Administrator, Sue Olson, City Attorney, and Barry Peters, Consulting City Engineer.

CONSENT AGENDA

Councilmember Menard introduced the following resolution and moved its adoption:

Res. 01-111A

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING CONSENT AGENDA ITEMS A, B, C, D and E FROM THE SEPTEMBER
4, 2001 CITY COUNCIL AGENDA.

- A. Approve the minutes of the regular City Council Meeting of August 6, 2001.
- B. Approve the minutes of the City Council Workshop of August 20, 2001.
- C. Approve the bills as presented in the amount of \$585,946.75.
- D. Approve receipts as presented in the amount of \$387,748.90.
- E. Approve the building, plumbing, and heating permits issued during the month of August, 2001.

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

Jim Menard – aye
Jack Nyenhuis – aye
Jim Kosmo – absent

Sharon Ridgway – aye
Allen Schultz – aye

PUBLIC HEARINGS

**Discuss Adopting a Resolution
Amending Woody's Bar & Grill Liquor License to Permit
The Service and Consumption of
Liquor in an Outside Service Area**

Mayor Protem Allen Schultz opened the Public Hearing related to a request from Brad Smith for the City to consider amending Woody's Bar & Grill liquor license to permit the service and consumption of liquor in an outside service area. He asked the City Administrator to read the Public Hearing Notice.

Ken Hartung, City Administrator, stated the Public Hearing Notice associated with the request for a liquor license amendment to Woody's Bar & Grill to permit alcoholic beverages to be served and consumed outside the interior premise of Woody's Bar & Grill was published in the Stillwater Evening Gazette on July 16, 2001, posted in City Hall on July 10, 2001 and mailed to the property owners within 300 feet of Woody's Bar & Grill on July 10, 2001.

Ken Hartung, City Administrator, stated City Attorney, Jim Lammers and he are recommending that City Council recess the Public Hearing so the Council can address the Conditional Use Permit application and variance application associated with the outside service area.

Moved by Councilmember Nyenhuis, seconded by Councilmember Menard to recess the Public Hearing associated with considering amending Woody's Bar & Grill liquor license to permit the service and consumption of liquor in an outside service area and moved to Council agenda item 4 to consider an application from Woody's Bar & Grill at 109 North 3rd Street for the City to consider the Conditional Use Permit and variance to permit outside seating for consumption for food and alcoholic beverages.

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

Voting against: None.

Absent: Councilmember Kosmo.

**Discuss and Application from Woody's Bar & Grill,
109 North 3rd Street, for the City to Consider Granting a
Conditional Use Permit and Variance to Permit
Outside Seating for Consumption of
Food and Alcoholic Beverages.**

Ken Hartung, City Administrator, stated the City has received a request from Brad Smith, the owner of Woody's Bar & Grill, 109 North 3rd Street, for the City to consider granting a Conditional Use Permit and Off-Street Parking Variance to permit outside seating for consumption of food and alcoholic beverages. He noted Mr. Smith is the owner of Woody's Bar & Grill which occupies Lots 5 and 6 of Block 59. He noted this item was on the August 6, 2001 City Council Agenda for Council review, discussion and action. On August 6, 2001 Brad Smith signed a notarized statement stating he waived

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his right to determination within 60 days of his request for the Conditional Use Permit and Parking Variance. By signing the waiver form Mr. Smith formally requested the City table consideration of the Conditional Use Permit and Parking Variance until such a time as he requested the item be placed on the City agenda. He contacted Mr. Smith on Thursday, August 30. At that time Mr. Smith requested the item be placed on the September 4, 2001 Council agenda. Ken Hartung stated Mr. Smith is proposing to create an outside eating and drinking area on the west side of his building on the sidewalk directly adjacent to Highway 95. He noted Mr. Smith is proposing to position nine tables, each seating four individuals in outside seating area located along the entire length of Woody's Bar & Grill and Pawnee's Bowling Alley for a distance of approximately 88 feet. He stated the outside eating and dining area will extend approximately 6 feet out from Woody's west outside wall. A proposed outside dining and alcohol area, he noted, would seat 36 individuals. He stated the eating and alcoholic serving area is proposed to have service seven days a week between the hours of 10:00 a.m. and 1:00 a.m.

Ken Hartung, City Administrator, reviewed the Zoning Ordinance Regulations related to Mr. Smith's request for a Conditional Use Permit and variance associated with outside dining and alcoholic beverages as follows:

1. Woody's Bar & Grill is zoned B-3 Central Business District. Bars, taverns, restaurants and bowling alleys are permitted uses of B-3 Zoning District.
2. Outside eating is permitted in the B-3 Zoning District provided the City issues a Conditional Use Permit.
3. Off-street parking must be provided for the additional 528 square feet of service area and the additional 36 seats proposed to be added as an outside dining and alcoholic consumption area.
4. Woody's Bar & Grill has 8 bowling lanes which require 6 off-street parking spaces for each lane based on Zoning Ordinance Requirements. This would require a total of 48 off-street parking spaces. Woody's Bar & Grill has 12 off-street parking spaces which is a deficit of 36 spaces. However, the bowling alley and bar area was in existence prior to the City having a Zoning Ordinance regulating parking requirements. Therefore, the deficit of 36 parking spaces is grandfathered. Consequently, Woody's Bar & Grill does not have to provide additional off-street parking spaces for its existing uses.
5. Woody's Bar & Grill is proposing to add 528 square feet or 36 seats as an outside service area. When a business expands its existing area the business is required to provide additional off-street parking associated with the expansion of the business. Zoning Ordinance Section 712.02 (2) (d) states that a bowling alley must provide 6 spaces for each alley plus additional spaces as may be required therein for related uses such as a restaurant.

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Ken Hartung went on to review the Conditional Use Permit criteria for outside dining. He stated the criteria, which must be met for a Conditional Use Permit to be issued for outside dining and alcoholic beverage consumption, are the following:

1. Certain conditions as detailed in the Zoning Ordinance exist.

Zoning Ordinance permits outside dining in the B-3 Central Business District with the Conditional Use Permit. Therefore, certain conditions as detailed in the Zoning Ordinance exist to permit outside dining.

2. Outside dining conforms with the Comprehensive Land Use Plan.

The Comprehensive Land Use Plan identifies the area in which Woody's Bar & Grill is located as Community Commercial District which has taverns, restaurant, and bowling alleys as permitted uses. Consequently, the outside dining area conforms with the City's Comprehensive Plan.

3. Outside dining is compatible with the existing neighborhood.

The zoning to the northwest and south is B-3 Central Business District. The zoning to the east of Woody's Bar & Grill is residential. The Planning Commission held a Public Hearing related to this issue on July 9, 2001. At the Public Hearing a number of residents spoke against the outside dining and alcoholic consumption proposal from Woody's Bar & Grill. The residents' comments generally indicated they believe an outside dining and alcohol service area is not compatible with the neighborhood. Comments from Bayport residents regarding the Conditional Use Permit and variance request for Woody's Bar & Grill are listed in the Planning Commission Minutes of July 6. The Council must decide tonight whether proposed Conditional Use Permit for outside dining and alcohol consumption is compatible with the existing neighborhood.

Ken Hartung went on to review the criteria for an Off-Street Parking Variance to allow additional outside dining at Woody's Bar & Grill. He stated Woody's Bar & Grill is going to be adding an additional 528 square feet of service area with seating for 36 individuals. He stated Zoning Ordinance Section 712.02 (2) (d) requires 6 spaces for each bowling alley and additional spaces as may be required for related uses. He stated parking requirements for the existing facilities at Woody's Bar & Grill is grandfathered. However, he noted the proposed new service area of 528 square feet would require additional off-street parking. He indicated the City Zoning Ordinance does not specify the exact number but off-street parking spaces are required for outside dining. However, he indicated examples of off-street parking requirements for other cities are as follows:

1. Oak Park Heights requires one space for every 40 square feet. Woody's is proposing 528 square feet divided by 40 square feet equals 14 off-street parking spaces.
2. Woodbury requires one space for every 2 seats. Woody's is proposing 36 seats divided by 2 seats equals 18 off-street parking spaces.

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3. Stillwater requires one space for every 100 square feet. Woody's is proposing 528 square feet divided by 100 square resulting in a requirement of 6 off-street parking spaces.

Ken Hartung noted the City Council can use any of the above parking criteria from other cities as a guide for determining the number of off-street parking spaces required for outside dining and alcohol beverage service area for Woody's Bar & Grill. He stated, however, before the City Council can grant a variance for off-street parking, the Council needs to review the variance criteria associated with meeting the hardship definition posted in the City's Zoning Ordinance. In order for the City Council to grant the variance, he stated, the applicant must prove hardship. He noted the State courts have determined the following criteria must be met to prove a hardship related to the Off-Street Parking Variance:

1. A variance can be granted if the business owner cannot make a reasonable use of the property without the off-street parking variance.
2. A variance can be granted if the off-street parking variance is required because of circumstances unique to the property and not as a result of action by the landowner.
3. A variance can be granted if the Parking Variance does not change the essential character of the locality.

Ken Hartung went on to state the Planning Commission held a Public Hearing on July 9, 2001 to consider the Conditional Use Permit and variance request by Brad Smith for Woody's Bar & Grill to permit outside dining and alcohol beverage consumption. He stated following the Planning Commission's Public Hearing the Planning Commission adopted the following motions:

1. The Planning Commission adopted a motion recommending the City Council deny the Conditional Use Permit for outside dining and alcohol service area for Woody's Bar & Grill and that the denial is recommended because the outside dining and alcohol service area is not compatible with the existing neighborhood.
2. The Planning Commission adopted a motion recommending the City Council deny the new parking variance for outside dining and alcohol service area and that the Planning Commission recommends denial of the variance because:
 - a) The owner of the property has reasonable use of the property without the variance and
 - b) Granting a parking variance will change the essential character of the locality.

Ken Hartung stated that tonight the City Council is required to take action to approve or deny the Conditional Use Permit and approve or deny a variance associated with permitting Woody's Bar & Grill to have an outside dining and alcohol consumption area.

Brad Smith, the owner of Woody's Bar & Grill, presented the City Council with a petition he stated had been signed by 100 individuals who favored the outside dining and service area. He stated his hardship associated with the variance is the fact that his

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bowling business brings in a good business in the wintertime. However, he noted that in the summer bowling activities cease and he needs to expand his business to be able to have a viable year-round business. He stated he would be taking 9 tables from inside of his existing bar service area and placing them outside. He noted, consequently, he would not be increasing the seating area and, therefore, additional off-street parking should not be required. He also indicated that he is willing to change the hours of operation from the original proposed 10:00 a.m. - 1:00 a.m. to 10:00 a.m. – 10 or 11:00 p.m.

Councilmember Nyenhuis asked Mr. Smith what type of fencing he is proposing to corridor off the alcohol and dining service area.

Brad Smith stated he would like to use a barrier similar to what the airline use to direct counter traffic. He noted a simple portable post with a felt-like rope material.

Councilmember Nyenhuis stated he would require a more solid barrier, which would have the ability to contain people having alcohol within the restricted area.

Mr. Smith stated he certainly would be willing to look into a picket-style fence with removable posts.

Councilmember Nyenhuis asked Mr. Smith why he didn't propose having outside seating on the south side of Woody's Bar & Grill instead of the west side adjacent to Highway 95.

Brad Smith stated the west sidewalk area is visible from the inside bar area because there is a continuous wall of windows. On the south side there are no windows so inside staff would not be able to observe the activity that might be taking place in the outside area.

Councilmember Menard stated he has concerns if the alcohol and dining area were located on the west sidewalk area. He noted there have been general complaints about the noise from Woody's Bar & Grill without having any eating or dining activities located on the outside of the building. He also stated he has a very real concern with the time of operation. He noted he believes operating until 1:00 a.m. is much too late. He indicated 10 or 11:00 p.m. on certain nights might also be too late for operation in a residential area.

Brad Smith he stated he could look into changing the hours of operation.

Cara Torseth, at 15 Point Road, stated she believes it would be beneficial for the city to have an outside dining place within the City of Bayport. She also noted the Fish Bowl Restaurant located on 5th Avenue North had outside dining at one time.

Ken Hartung, City Administrator, stated the Fish Bowl did get a Conditional Use Permit for two tables to be placed on the sidewalk near 5th Avenue North, however they did not include the service of alcoholic beverages.

Dan Goldston, 4 Point Road, indicated he would like to have an outside dining area in the local restaurants or taverns for non-smokers.

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Councilmember Nyenhuis stated he does not have a problem granting a parking variance. He stated customers park on the street now and he doesn't believe that this would have a significant impact on street parking.

Moved by Councilmember Nyenhuis, seconded by Councilmember Menard to adopt a resolution approving a Conditional Use Permit to allow alcohol beverage service outside of Woody's Bar & Grill on the west sidewalk directly adjacent to Highway 95.

Voting in favor: Councilmembers Nyenhuis and Menard.

Voting against: Councilmembers Ridgway and Schultz.

Absent: Councilmember Kosmo.

Motion fails.

Moved by Councilmember Ridgway, seconded by Councilmember Menard to deny a variance for off-street parking associated with 36 outside seats for an eating and alcohol beverage service area on the west sidewalk directly outside Woody's Bar & Grill.

Voting in favor: Councilmembers Schultz and Ridgway.

Voting against: Councilmembers Nyenhuis and Menard.

Absent: Councilmember Kosmo.

Motion fails.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis to reconvene the public hearing associated with amending Woody's Bar & Grill liquor license to permit the service and consumption of liquor in an outside service area.

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

Voting against: None.

Absent: Councilmember Kosmo.

SUBJECT: DISCUSS ADOPTING
A RESOLUTION AMENDING WOODY'S
BAR & GRILL LIQUOR LICENSE TO
PERMIT THE SERVICE AND CONSUMPTION
OF LIQUOR IN AN OUTSIDE SERVICE AREA

Protem Mayor Allen Schultz asked if there are additional comments relating to Woody's Bar & Grill liquor license to permit alcohol to be served in an outside service area.

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There was no additional public comment.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis to close the Public Hearing related to amending Woody's Bar & Grill liquor license to allow outside service and consumption of alcohol.

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

Voting against: None.

Absent: Councilmember Kosmo.

Moved by Councilmember Nyenhuis, seconded by Councilmember Menard to deny an amendment to Woody's Bar & Grill and not allow alcohol beverage service area outside Woody's Bar & Grill on the west sidewalk area directly adjacent to Highway 95 and said amendment is denied because the Council failed to approve a Conditional Use Permit and variance which would have permitted Woody's to construct an outside service area to permit outside dining and alcohol service and consumption.

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

Voting against: None.

Absent: Councilmember Kosmo.

**Discuss a Request to Vacate
A Portion of 7th Street North**

Mayor Protem Allen Schultz opened the Public Hearing related to request to vacate a portion of 7th Street North and asked the City Administrator to read the Notice of Hearing.

Ken Hartung, City Administrator, stated Notice of Public Hearing to consider vacating a portion of 7th Street North was published in the Stillwater Gazette on August 22 and 29, posted in City Hall on August 28 and mailed to the affected property owners on August 17, 2001. He stated the City has received a request from Paul Norum, 686 2nd Avenue North and Sarah Wagner, 672 2nd Avenue North to consider vacating a portion of 7th Street North adjacent to the properties. He noted that the proposed vacated portion of 7th Street North is approximately 30 feet wide and dead ends near Perro Creek. He indicated the City has determined there are no utilities in the area. He indicated if the City desires to vacate this portion of 7th Street North he would recommend the City maintain a 20-foot utility easement for possible future use.

Peter Clemmens, husband of Sarah Wagner of 672 2nd Avenue North stated he has no objection to the City having a utility easement if they would agree to vacate a portion of 7th Street North. He stated the reason Paul Norum and his wife are requesting the vacating of a portion of 7th Street North is so that they can maintain the area.

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Moved by Councilmember Menard, seconded by Councilmember Nyenhuis to close the Public Hearing for the purpose of receiving public comment on the proposed vacating of 7th Street North.

Councilmember Menard stated he would introduce the resolution to vacate it contingent upon staff incorporating a language into the resolution which specifies that the City maintain a 20-foot utility easement in a vacated property.

Councilmember Menard introduced the following resolution and moved its adoption.

RES. 01-111B

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
VACATING A PORTION OF 7th STREET NORTH IN THE CITY OF BAYPORT,
WASHINGTON COUNTY, MINNESOTA.

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

Jim Menard – aye
Sharon Ridgway – aye
Jack Nyenhuis - aye

Jim Kosmo – absent
Allen Schultz – aye

**Discuss a Request For Variance
For the City of Bayport's Open
Burning Ordinance**

Mayor Protem Allen Schultz opened the Public Hearing related to the Andersen Corporation's request for the City to consider granting a variance for its Open Burning Ordinance and asked the City Administrator to read the Notice of Hearing.

Ken Hartung, City Administrator, read the notice associated with the Open Burning Variance for the Andersen Corporation stating it was published in the Stillwater Evening Gazette on August 22, posted in City Hall on August 21 and mailed to appropriate residents on August 21, 2001. Ken Hartung stated the Andersen Corporation is requesting an Open Burning Variance from Open Burning Ordinance Section 30.59. He stated the City's Open Burning Variance prohibits open burning in the City with the exception of recreational fires which can have a maximum width of 30 inches and a maximum height of 30 inches. He stated the Andersen Corporation has proposed to conduct a control burn on the north section of Outlot A designed to assist with native prairie vegetation. He stated the control burn would be conducted by Craig Andresen with Natural Resources Restoration Company. He also indicated the Minnesota Department of Natural Resources supplied the City with a letter which states savannas, prairies and wetlands are dependent on fires for long-term health and stability.

He stated in order for the City Council to grant the variance to Open Burning Ordinance Section 30.59 the following criteria must be met:

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1. The City Council must determine that the property cannot be put to reasonable use without the Open Burning Variance.
2. The Council must determine that the Open Burning Variance is required because of circumstances unique to the property are not created by the landowner.
3. The City Council must determine that if a variance is granted for a controlled burn it will not change the character of the locality.

Kristin Afdahl, Andersen Corporation Horticulturist, introduced Al Brackenstad with Prairie Home Restoration. She stated Mr. Brackenstad would explain the restoration program as defined for the north portion of Outlot A Point Addition.

Mr. Brackenstad reviewed the vegetation history associated with Outlot A Point Addition. He indicated that government records demonstrate that vegetation on the Point consist of mostly prairie grasses. Data from 1855 indicates there were four Oak trees on the entire Point, however the rest of vegetation was prairie in nature. He indicated grazing by animals and fires maintained the prairie grasses for many years until humans settled the area. He indicated Outlot A consists of approximately 4 acres. The goal would be to restore 2 acres with its natural prairie vegetation. He stated the burn would be conducted by Craig Andresen, an employee of Natural Resources Restoration. He stated Mr. Andresen would conduct the control burn only if conditions were ideal for the burn.

Councilmember Nyenhuis asked if the variance Andersen was applying for was a one-time burn or a variance to permit ongoing burning.

Ken Hartung, City Administrator, stated the City Council would have to determine how many burns the variance would incorporate.

Bill Metcalf, 7 Point Road, stated he has seen many rare white flowers in abundance on Outlot A. He noted, if the white flowers are supposed to be native and only survive with periodic burning, why is there such an abundance of them on Outlot A.

Al Brackenstad stated many of the native plants have a long life cycle. Some can live as many as 50 years once they have been established. He theorizes that may have happened with the native white flowers that Mr. Metcalf has found on Outlot A.

Nancy Marsden, 6 Point Road, stated she is concerned about the burning getting away from the company employed to do the controlled burn. She is also concerned about the soot and ash that will be blowing around on the site.

Dan Johnson, 3 Point Road, and President of the Point Road Association, asked Kristin Afdahl to outline the exact area which will be burned.

Kristin Afdahl, using a transparency, showed the northern portion of Outlot A. She stated there is a tree line on the north end of the property and on the riverside of the property. She noted the burn is designed to stop at the drip line of the trees. Consequently, she noted the fire will not be allowed to encroach into the tree area on the north and east sections of Outlot A.

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Dan Johnson, 3 Point Road, President of the Point Road Association, stated he believes the City Council should not grant the variance for Andersen Corporation to conduct an open burn on Outlot A. He stated he believes the Andersen Corporation does not meet the criteria required for a variance because he believes the Andersen Corporation has reasonable use of the property without the variance. He also stated that there is nothing unique about the property that would require a variance to be granted. He stated the only reason the variance is proposed is because the Andersen Corporation is proposing to do a controlled burn for restoration of the native grasses. He stated he believes burning on Outlot A will change the essential character of the locality.

Jim Torseth, 15 Point Road, stated he has lived on the Point since 1982. During that time there has never been a request to change the vegetation on Outlot A. He noted he believes the existing vegetation is an excellent barrier from both noise and particulate pollution from the Xcel Energy Plant. He stated if the City grants an Open Burning Variance and allows a controlled burn on Outlot A it will change the characteristics of the locality. He stated the Andersen Corporation has owned the land for over 50 years and has had reasonable use of the property. He noted he does not know what has changed recently which would have required them to do an open burn to restore natural vegetation.

Moved by Councilmember Menard, seconded by Councilmember Ridgway to close the Public Hearing related to request for variance from the City's Open Burning Ordinance.

Voting in Favor: Councilmembers Menard, Ridgway, Schultz, Nyenhuis.

Voting Against: None.

Absent: Councilmember Kosmo.

Councilmember Menard introduced the following resolution and moved its adoption.
RES. 01-112

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
DENYING A REQUEST FROM THE ANDERSEN CORPORATION, 100 4th AVENUE
NORTH, FOR A VARIANCE FROM THE CITY'S OPEN BURNING ORDINANCE
SECTION 30-59.

WHEREAS: The Andersen Corporation is the owner of the property described as on Outlot A Point Addition, Bayport (formerly South Stillwater): and,

WHEREAS: The property legally described as Outlot A Point Addition, Bayport (formerly South Stillwater) is located in the R-2 Residential Family Estate District; and,

WHEREAS: The land north and to the west is zoned I Industrial; and

WHEREAS: The land to the east and to the south is zoned R-2 Residential Estate District; and,

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WHEREAS: The Andersen Corporation, the owner of Outlot A Point Addition, Bayport (formerly South Stillwater) has petitioned the City Council to grant a variance to allow a controlled burn of the north portion of the Outlot A to help return that portion of Outlot A to its native vegetation growth; and,

WHEREAS: The City of Bayport Open Burning Ordinance Section 30-59 prohibits any open burning other than recreational fires which have a maximum size of 30 inches in diameter and a maximum height of 30 inches; and

WHEREAS: In order for the City Council to consider granting a variance from Open Burning Ordinance Section 30-59 the variance must meet the following criteria:

1. A variance may be granted to a property owner if property owner cannot make reasonable use of the property without the variance.
2. A variance may be granted if a variance is required because of circumstances unique to the property which are not created by the landowner.
3. A variance can be granted if the variance will not change the central character of the locality; and

WHEREAS: The City Council has determined the Open Burning Variance request made by the Andersen corporation does not meet the variance criteria specified above.

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

1. Deny the request form the Andersen Corporation , 100 4th Avenue North, for a variance form the City's Open Burning Section 30-59 denying an Open Burning Variance and denying a controlled burn on the northern portion of Outlot A Point Addition, Bayport (formerly South Stillwater).
2. The City Council denies the Open Burning Variance based on the City Council's following determinations:
 - A) The City Council has determined if the Open Burning Variance is not granted the property owner still has reasonable use of the property.
 - B) The City Council has determined the request for an Open Burning Variance is due to circumstances created by the landowner and not due to circumstances unique to the property.
 - C) The City Council has determined the Open Burning Variance associated with a controlled burn to restore native vegetation to the northern portion of Outlot A Point Addition will change the essential character of the property.

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Adoption of the foregoing resolution was duly seconded by Councilmember Ridgway and upon roll being taken thereon, the following voted via voice:

Jack Nyenhuis – nay
Jim Menard – aye
Jim Kosmo – absent

Allen Schultz – aye
Sharon Ridgway – aye

Ken Hartung requested the City Council to return to Item 4 which was discussing an application from Woody's Bar & Grill for the City to grant a Conditional Use Permit and variance to permit outside seating for consumption of food and alcoholic beverages. He stated he would like the City Council to return to that issue because the City Council's action on a variance for a Conditional Use Permit resulted in a tie of 2-2 votes on both issues. He stated Minnesota law dictates that if the Council does not take specific action to deny a Conditional Use Permit or variance request in 60 days after the application has been made, a variance and Conditional Use Permit automatically approved. Consequently, he stated he would like City Council to take action to return to discussion on this issue.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis to return to discussion related to application for Woody's Bar & Grill for the City to consider granting a Conditional Use Permit and variance for outside seating for consumption of food and alcoholic beverages.

Voting in favor: Councilmembers Menard, Nyenhuis, Schultz, Ridgway

Voting Against: None

Absent: Councilmember Kosmo

**DISCUSS AN APPLICATION FROM
WOODY'S BAR & GRILL, 109 NORTH 3rd STREET
FOR THE CITY TO CONSIDER GRANTING A
CONDITIONAL USE PERMIT AND VARIANCE
TO PERMIT OUTSIDE SEATING FOR CONSUMPTION
OF FOOD AND ALCOHOLIC BEVERAGES**

Ken Hartung stated the Council was not able to take any definitive action on Brad Smith's request for Conditional Use Permit and variance to permit outside seating and consumption of food and alcoholic beverages at Woody's Bar & Grill. He noted the City Council moved and seconded approval of a Conditional Use Permit and voted 2-2 tie vote resulting in the motion failing. Additionally, he stated the City Council moved and seconded a motion to deny the variance with the Council ending in a 2-2 vote and the motion failed. He stated Minnesota Law requires City Council either approve or deny the Conditional Use Permit and variance. If the City Council does not take action to approve and does not take action to deny the Conditional Use Permit and variance State law specifies that the Conditional Use Permit and variance will automatically be approved in 60 days. He stated Mr. Smith applied for the Conditional Use Permit and Variance on June 20, 2001. He stated the 60-day period expired on August 20, however Mr. Smith signed a notarized statement extending the time period to September 4, which is this Council meeting. He noted if the Council does not take action to formerly deny Mr.

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Smith's request this evening the Conditional Use Permit and variance will automatically be approved effective September 4.

Council discussion on the issue indicated that preferences to deny both the Conditional Use Permit and variance but would allow Mr. Smith at some future date, if he wishes, to come back and seek approval of a Conditional Use Permit and variance.

Councilmember Menard introduced the following resolution and moved its adoption:
RES. 01-113

**RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
DENYING A CONDITIONAL USE PERMIT AND DENYING AN EATING AND
ALCOHOL BEVERAGE SERVICE AREA ON THE OUTSIDE OF WOODY'S BAR &
GRILL LOCATED AT 109 NORTH 3RD STREET.**

WHEREAS: Brad Smith is the owner of property described as Lots 5 and 6, Block 59, Bayport (formerly South Stillwater) on which Woody's Bar & Grill is situated; and,

WHEREAS: The property on which Woody's Bar & Grill is located is zoned B-3 Central Business District; and,

WHEREAS: The land to the north, south and west is zoned B-3 Central Business District; and

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

WHEREAS: The B-3 Central Business District allows taverns and bowling alleys as a permitted use; and,

WHEREAS: The B-3 Central Business District allows outside dining activities provided the owner is issued a Conditional Use Permit; and,

WHEREAS: Brad Smith, the owner of Woody's Bar & Grill has petitioned the City for the City Council to grant a Conditional Use Permit to permit Woody's Bar & Grill to establish an eating and alcoholic beverage service area on the outside sidewalk of the west side of the building adjacent to Highway 95; and,

WHEREAS: Zoning Ordinance Section 601.01 (10) (e) (17) permits an outside eating area within the B-3 Central Business District provided the City Council issues a Conditional Use Permit; 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 Permit and upon finding that:

- 1) Certain conditions as detailed in the Zoning Ordinance exist.

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- 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 Planning Commission held a Public Hearing related to the Conditional Use Permit to allow outside dining at Woody's Bar & Grill at its regular meeting of Monday, July 9, 2001; and,

WHEREAS: Following the Public Hearing, the Planning Commission unanimously adopted a motion recommending the City Council deny a Conditional Use Permit and not allow an eating and alcoholic beverage service area outside of Woody's Bar & Grill located on the west sidewalk directly adjacent to Highway 95 and that the Planning Commission made such a recommendation because the Planning Commission determined that the Conditional Use Permit request for eating and alcoholic beverage service area outside of Woody's Bar & Grill was not compatible with the existing neighborhood; and,

WHEREAS: The City Council met on September 4, 2001 at a regular City Council Meeting to consider the Conditional Use Permit request by Brad Smith, the owner of Woody's Bar & Grill, to permit outside eating and alcoholic beverage service area.

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

- 1) Deny the Conditional Use Permit requested by Brad Smith, the owner of Woody's Bar & Grill, 109 North 3rd Street, prohibiting an outside eating and alcohol service area to be located on the west sidewalk directly adjacent to the west wall of Woody's Bar & Grill and adjacent to Highway 95 and that the City Council denies the Conditional Use Permit based on the following determinations:
 - A) The City Council has determined that the Conditional Use Permit does not meet the criteria specified for a local government to grant a Conditional Use Permit outlined in Zoning Ordinance Section 505.01(3) which requires that the outside dining and alcohol service area be compatible with the existing neighborhood.
 - B). The City Council has determined that the proposed outside dining and alcohol service area for Woody's Bar & Grill, 109 North 3rd Street, is not compatible with the existing neighborhood and consequently fails to meet the criteria for a Conditional Use Permit as specified in Zoning Ordinance Section 505.01(3) which requires the proposed use of outside dining and alcohol service area to be compatible with the existing neighborhood.

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

Allen Schultz – aye
Jim Menard – aye
Jim Kosmo - absent

Sharon Ridgway – aye
Jack Nyenhuis – nay

Jim Menard introduced the following resolution and moved its adoption:

RES. 01-114

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, DENYING A VARIANCE FOR OFF-STREET PARKING ASSOCIATED WITH ADDING 525 SQUARE FEET AND 36 OUTSIDE SEATS FOR EATING AND ALCOHOLIC BEVERAGE SERVICE AREA ON THE WEST SIDEWALK DIRECTLY OUTSIDE WOODY'S BAR & GRILL.

WHEREAS: Brad Smith is the owner of property described as Lots 5 and 6, Block 59, Bayport (Formerly South Stillwater) on which Woody's Bar & Grill is situated; and,

WHEREAS: The property on which Woody's Bar & Grill is located is zoned B-3, Central Business District; and,

WHEREAS: The land to the north, south and west is zones B-3 Central Business District; and,

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

WHEREAS: The B-3 Central Business District allows taverns and bowling alleys as a permitted use; and,

WHEREAS: The B-3 Central Business District allows outside dining activities provided the owner is issued a Conditional Use Permit; and,

WHEREAS: Brad Smith, the owner of Woody's Bar & Grill has petitioned the City for the City Council to grant a Conditional Use Permit to allow Woody's Bar and Grill to establish an eating and alcoholic beverage service area on the outside sidewalk of the west side of the building adjacent to Highway 95; and,

WHEREAS: Brad Smith of Woody's Bar & Grill is proposing to add 528 square feet to his dining service area to accommodate 36 individuals in the outside eating and alcoholic beverage service area; and,

WHEREAS: Zoning Ordinance Section 712.07(2)(d) states that a bowling alley must provide six parking spaces for each alley plus additional spaces as may be required therein for related use, such as a restaurant; and,

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WHEREAS: Woody's Bar & Grill is proposing to expand the restaurant and service area by establishing a 528 square foot outside eating and alcoholic beverage area which will accommodate 36 individuals; and,

WHEREAS: The expansion of the restaurant area to an outside eating and alcoholic beverage service area requires additional off-street parking; and,

WHEREAS: Brad Smith of Woody's Bar & Grill is not able to provide additional parking to accommodate the 36 individuals who will be added to his existing restaurant service area and,

WHEREAS: Brad Smith, the owner of Woody's Bar & Grill, is asking the City Council to grant a variance from Zoning Ordinance Section 712.01(2)(d) permitting Woody's Bar & Grill to expand his restaurant business by establishing an outside eating and alcoholic beverage service area of 528 square feet to accommodate 36 individuals without providing additional off-street parking; and,

WHEREAS: In order for the City Council to consider approving an off-street parking variance for Woody's Bar & Grill, the City Council must be convinced that the variance is consistent with criteria specified in Zoning Ordinance Section 301(171) which states, "A variance is a modification or variation of the strict provision of this ordinance as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon the property by this ordinance. A variance shall normally be limited to height, bulk, density and yard requirements; and,

WHEREAS: In order for the City Council to consider granting an off-street parking variance, the Minnesota Courts have determined the variance request must meet the following criteria:

- 1) A variance may be granted to an individual if the individual cannot make reasonable use of their property without the variance.
- 2) A variance can be granted if the variance is required because of circumstances unique to the property and not created by the landowner.
- 3) A variance can be granted if the variance will not change the essential character of the locality; and,

WHEREAS: The City Council has determined the off-street parking variance requested by Woody's Bar & Grill does not meet the variance criteria as specified above.

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

- 1) Deny a request for Woody's Bar & Grill, 109 North 3rd Street, for an off-street parking variance from Zoning Ordinance requirements

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specified in Section 712.07(2)(d) denying an off-street parking variance from all parking spaces required with the expansion of an outside dining and alcoholic beverage service area which seats 36 individuals.

- 2) The City Council denies the off-street parking variance based upon the City Council's following determination:
 - A) The City Council has determined if the off-street parking variance is not granted, the individual still has reasonable use of the property.
 - B) The City Council has determined the off-street parking variance is due to circumstances created by the landowner and not due to circumstances unique to the property.
 - C) The City Council has determined the off-street parking variance and its associated use of outside dining and alcohol service would change the essential character of the locality.

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

Sharon Ridgway – aye
Allen Schultz – aye
Jack Nyenhuis – nay

Jim Menard – aye
Jim Kosmo – absent

PETITIONS

ANDERSEN CLEAN UP DAY

Protem Mayor Allen Schultz reminded members of the Bayport Community that Andersen Clean Up Day, which has been scheduled for Saturday, September 15, 2001 from 8:00 a.m. to 11:00 a.m. He noted the clean up day will be held on the large parking lot of Andersen Corporation between Central Avenue and 4th Avenue North.

CITY ATTORNEY

Susan Olson stated she had nothing at this point on the City Council agenda.

CITY ENGINEER

Barry Peters stated he had nothing at this point on the City Council agenda.

DEPARTMENT HEADS

Ken Hartung, City Administrator, stated he had nothing at this point for the Council meeting unless Council members had specific questions.

COUNCIL LIAISON REPORTS

CABLE COMMISSION MEETING

Councilmember Sharon Ridgway stated the Joint Cable Communications Commission did not meet during the month of August. She stated the next meeting has been scheduled for Wednesday, September 19 at 7:00 p.m. at River Valley Plaza in the Cable Commissions Valley Access Studio.

OLD BUSINESS

Ken Hartung stated no old business has been slated for this evening's meeting.

NEW BUSINESS

**SUBJECT: DISCUSS ADOPTING A MOTION
ADOPTING ORDINANCE NUMBER 740, AN ORDINANCE AMENDING THE
MUNICIPAL CODE BY AMENDING SECTION 601, DISTRICTS AND
SECTIONS 602, MINIMUM REQUIREMENTS,
REGARDING FRONT YARD SETBACKS.**

Ken Hartung, City Administrator, stated that at the Council Meeting of June 4, 2001 the Council requested the City Administrator discuss front yard setback requirements with the Planning Commission. He noted the Planning Commission held a Public Hearing to consider amending the City's Zoning Ordinance on Monday, August 13, 2001. He stated following the Planning Commissions' Public Hearing and review of residential front yard setback, the Planning Commission recommended the City Council change the front yard setback from 30 feet to 20 feet. Ken Hartung then reviewed the specific setback dimensions as it relates to City streets with Councilmembers.

Protem Mayor Allen Schultz conducts the first reading of Ordinance 740, and Ordinance of the City of Bayport, Washington County, Minnesota amending the Municipal Code By Amending Section 601, Districts, and Section 602, Minimum Requirements Regarding Front Yard Setbacks.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis to waive the City Council second reading of Ordinance of Section 740.

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

Voting against: None.

Absent: Councilmember Kosmo.

Moved by Councilmember Menard, seconded by Councilmember Nyenhuis to adopt Ordinance 740, an Ordinance of the City of Bayport, Washington County, Minnesota amending the Municipal Code By Amending Section 601, Districts, and Section 602, Minimum Requirements Regarding Front Yard Setbacks.

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

Voting against: None.

Absent: Councilmember Kosmo.

SUBJECT: DISCUSS PROPOSED RESOLUTION
APPROVING THE LABOR AGREEMENT BETWEEN
THE CITY OF BAYPORT AND MINNESOTA TEAMSTERS PUBLIC
AND LAW ENFORCEMENT EMPLOYEES UNION
(LOCAL #420)

Ken Hartung, City Administrator, stated the City of Bayport's Public Works employees are represented by a Minnesota Teamsters Public and Law Enforcement Employee Union Local 320. He noted the current agreement expires on September 31, 2001. He stated the City has been engaged in negotiations with the Public Works Employees Union since June of 2001. He stated staff is presenting the contract proposal between the City of Bayport and the Public Works Employees Union for the years of 2002, 2003, and 2004 at this evening's meeting. He stated the wage proposed for the agreement for the next three years is as follows:

2002 – 4.0% wage increase

2003 – 3.5% wage increase

2004 - 3.5% wage increase

Councilmember Ridgway introduced the following resolution and moved its adoption:
RES. 01-115

RESOLUTION CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING A LABOR AGREEMENT BETWEEN THE CITY OF BAYPORT AND
MINNESOTA TEAMSTERS PUBLIC AND LAW ENFORCEMENT EMPLOYEES UNION
(LOCAL 320) EFFECTIVE FROM JANUARY 1, 2002 THROUGH DECEMBER 31, 2004.

The 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 – absent
Allen Schultz – aye

Jack Nyenhuis – aye
Sharon Ridgway – aye

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**SUBJECT: DISCUSS ADOPTING A RESOLUTION
APPROVING AN AGREEMENT FOR THE CITY OF
BAYPORT TO PROVIDE FIRE INSPECTION SERVICE
TO THE CITY OF OAK PARK HEIGHTS**

Councilmember Menard introduced the following Resolution and moved its adoption:
RES. 01-116

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA
APPROVING AN AGREEMENT BETWEEN THE CITY OF BAYPORT AND THE OAK
PARK HEIGHTS TO PROVIDE FIRE INSPECTION SERVICES TO THE CITY OF OAK
PARK HEIGHTS.**

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

Jim Menard – aye
Jim Kosmo – absent
Allen Schultz – aye

Jack Nyenhuis – aye
Sharon Ridgway – aye

**SUBJECT: DISCUSS ADOPTING A RESOLUTION
AUTHORIZING CLEANING AND INSPECTION OF
THE CITY'S 750,0000-GALLON WATER STORAGE TANK**

Councilmember Ridgway introduced the following Resolution and moved its adoption:

RES. 01-117

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA
AUTHORIZING CLEANING AND INSPECTION OF THE CITY'S 750,000-GALLON
ABOVE GROUND WATER STORAGE TANK BY LIQUID ENGINEERING
CORPORATION, BILLING, MT FOR A QUOTE OF \$3,025.**

The 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 – absent
Allen Schultz – aye

Jack Nyenhuis – aye
Sharon Ridgway – aye

SUBJECT: DISCUSS ADOPTING A RESOLUTION
APPROVING A CEMETERY DEED
FOR DONALD SECREST

Councilmember Menard introduced the following Resolution and moved its adoption:
RES. 01-118

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING A CEMETERY DEED FOR DONALD SECREST.

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

Jim Menard – aye
Jim Kosmo – absent
Allen Schultz – aye

Jack Nyenhuis – aye
Sharon Ridgway – aye

SUBJECT: DISCUSS ADOPTING A RESOLUTION
PROVIDING FOR COMPETITIVE NEGOTIATED SALE
OF \$1,535,000 GENERAL OBLIGATION REFUNDING
BONDS OF 2001

Moved by Councilmember Menard and seconded by Councilmember Nyenhuis to approve a Financial Service Agreement between the City of Bayport and Juran & Moody.

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

Voting against: None.

Absent: Councilmember Jim Kosmo.

Councilmember Menard introduced the following Resolution and moved its adoption:
RES. 01-119

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING THE COMPETITIVE NEGOTIATED SALE OF \$1,535,000 GENERAL
OBLIGATION REFUNDING BONDS OF 2001.

A motion for adopting the foregoing Resolution and duly seconded by Councilmember Nyenhuis and upon roll call taken thereon, the following voted via voice:

Jim Menard – aye
Jim Kosmo – absent
Allen Schultz – aye

Jack Nyenhuis – aye
Sharon Ridgway – aye

**SUBJECT: DISCUSS ADOPTING A RESOLUTION
ESTABLISHING THE PRELIMINARY LEVY
CERTIFICATION PAYABLE 2002**

Councilmember Menard introduced the following Resolution and moved its adoption:
RES. 01-120

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COURT, MINNESOTA,
ESTABLISHING THE PRELIMINARY LEVY CERTIFICATION FOR THE CITY'S
GENERAL, DEBT SERVICE AND LIBRARY SPECIAL FUND AT \$1,275,594.00.**

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

Jim Menard – aye
Jim Kosmo – absent
Allen Schultz – aye

Jack Nyenhuis – aye
Sharon Ridgway – aye

COUNCIL LETTER NO. 01-140

**SUBJECT: DISCUSS ADOPTING A RESOLUTION
AUTHORIZING REPLACEMENT OF THE PERRO CREEK
OPEN TRENCH CULVER**

Councilmember Menard introduced the following Resolution and moved its adoption:
RES. 01-121

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AUTHORIZING INSTALLATION OF AN OPEN TRENCH CONCRETE CULVERT IN
PERRO CREEK BY JP ENTERPRISES OF STILLWATER, MINNESOTA FOR THE
AMOUNT OF \$7,750.**

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

Jim Menard – aye
Jim Kosmo – absent
Allen Schultz – aye

Jack Nyenhuis – aye
Sharon Ridgway – aye

ADMINISTRATOR'S REPORT

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Ken Hartung stated he had nothing to report under the Administration Section for the Council.

ADJOURN

Moved by Councilmember Menard, seconded by Councilmember Ridgway to adjourn the City Council meeting of September 4, 2001.

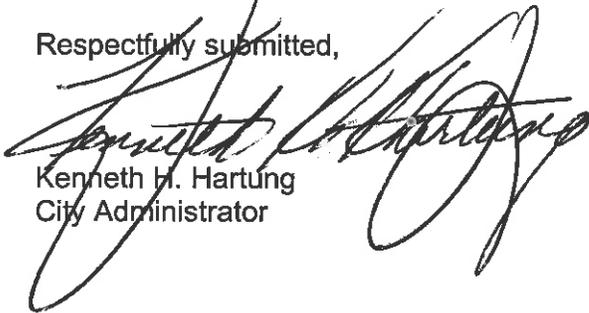
Voting in favor: Councilmembers Menard, Ridgway, Schultz and Nyenhuis.

Voting against: None.

Absent: Councilmember Kosmo.

The regular City Council meeting of September 4, 2001 was adjourned at 9:25 p.m.

Respectfully submitted,



Kenneth H. Hartung
City Administrator