

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
JUNE 3, 2013
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of June 3, 2013 to order at 6:00 p.m., and asked Councilmembers, staff and the audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members Present: Mayor Susan St. Ores, Councilmembers Connie Carlson, Dan Goldston, Michele Hanson and Patrick McGann

Members Absent: None

Staff Present: Acting Administrator/City Planner Sara Taylor, Police Chief Laura Eastman, Public Works Supervisor Mel Horak, Finance Officer Wanda Madsen, Engineer Barry Peters, Attorney Andy Pratt, and Fire Chief Mark Swenson

APPROVAL OF AGENDA

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to approve the June 3, 2013 City Council agenda. Motion carried 5-0.

PROCLAMATIONS/COMMENDATIONS/PETITIONS/ANNOUNCEMENTS

1. May recycling award recipient is Chuck Swartz who will receive \$30.00 for his recycling efforts, with funding made possible by a grant from Washington County.
2. BCAL is sponsoring a city-wide garage sale on Friday and Saturday, June 7 and 8, 2013. Maps will be available at City Hall and local businesses on Wednesday, June 5.
3. BCAL is holding a community ice cream social at Lakeside Park on Wednesday, June 12, 2013, from 6:30-8:30 p.m. in the beach house.
4. The Greater Stillwater Chamber of Commerce will be sponsoring Rockin' Ribs on the River at Lakeside Park on Saturday, June 15, 2013 from 11:00 a.m.-10:00 p.m. Enjoy blues music and ribs along the river.
5. BCAL is sponsoring the Dane's Place Pig Roast on Saturday, June 29, 2013, from 1:00-5:00 p.m., at Village Green Park.

OPEN FORUM

1. Chris Larson, with the city's engineering firm SEH, provided an update on new health risk limits issued by the Minnesota Department of Health (MDH) for trichloroethylene (TCE). The previous limits were 5.0 parts per billion (ppb) and the new MDH recommendation is 0.4 ppb. He noted the new standard is a health recommendation and does not carry a legal enforcement process for community water systems. City Engineer Peters reviewed the ongoing efforts to meet the MDH's regulated 5.0 ppb of TCE in the city's municipal drinking water, including plans to pipe water from well #3 through the air stripper that currently removes TCE from well #2. These plans are on hold while the city investigates outside funding sources for this project, estimated at \$600,000.00. Further information on TCE will be provided by MDH and Minnesota Pollution Control Agency (MPCA) staff at the July meeting.
2. Chris Most spoke on behalf of his parents, Jan and Lynn Most, who own a commercial building at 243 3rd Street North, and would like to bring a small grocery store to the space. He indicated his parents have owned the building for 36 years and it has always been used for a retail business. They have a Certificate of Compliance from the city indicating the last tenant's business was zoned

as a retail business; however, during the process to establish a grocery store in the space, they learned the city had reclassified the property to light manufacturing zoning, unbeknownst to the owners. The current building classification requires that a fire sprinkler system be installed for this use, and the owners are requesting that the property be re-classified or the city amend the adoption of Minnesota Building Provision 1306, so fire sprinklers would not be required. He stated the City of Stillwater has adopted the provision for buildings over 10,000 square feet when there is a change in use, and he believes the City of Lakeland requires sprinkling for buildings over 7,000 square feet.

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to move further discussion of this item to new business. Motion carried 5-0.

CONSENT AGENDA

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

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 13-10

RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-8 FROM THE JUNE 3, 2013 CITY COUNCIL AGENDA

1. May 6, 2013 City Council special meeting minutes
2. May 6, 2013 City Council regular meeting minutes
3. May payables and receipts (check numbers 1135824-1135939)
4. May building, plumbing and mechanical permits report
5. Special event application from BCAL for Derby Days on Saturday, September 21, 2013
6. Fireworks display permit for Derby Days on Saturday, September 21, 2013
7. Renewal of the city's auditing contract with Schlenner Wenner & Co. for 2013-2015
8. Agreement with Sanders, Wacker, Bergly for design and engineering services related to Perro Park hockey rink improvements

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

Susan St. Ores – aye
Connie Carlson – aye

Dan Goldston – aye
Michele Hanson – aye

Patrick McGann – aye

PUBLIC HEARINGS

Consider a request to vacate a portion of 5th Avenue South, adjacent to the Bayport Marina: Attorney Pratt reviewed disputes between Bayport Marina and Group 41, which include ownership of the freestanding sign at the corner of Highway 95 and 5th Avenue South. A 2009 survey determined the sign was located within the city's 5th Avenue South right-of-way, which is a violation of city code. Lengthy litigation determined that Group 41 owns the sign and Bayport Marina owns the land beneath it. The city has been working with both parties to initiate a joint street vacation request and make repairs to the sign, as stipulated in a settlement agreement between the three parties. He noted the city's concern with the current condition of the sign and the new restaurant owner's desire to improve and utilize the sign. He also stated the city has leverage to insure the sign is well maintained, since it is one of the property's conditional use permit requirements. Engineer Peters noted there are no city utilities that would affect the requested street vacation and the vacation provides for right-of-way over 5th Avenue South that is city owned and maintained.

Mayor St. Ores opened the public hearing and the following were heard:

Tom Geiger, 348 5th Avenue South, stated he lives across the street from the sign and expressed frustration with ongoing issues associated with the sign. He voiced concerns with the sign's location, orientation and especially lighting of the sign. He requested that staff review his concerns and applicable city code and postpone any action on changes to the sign until it can be discussed at a future meeting. Mr. Geiger challenged whether the appropriate light meter testing was conducted when the sign was initially installed and believes revising the lighting when the sign face is replaced would be the most cost-effective.

Bill Griffith, representing Group 41, stated the proposed street vacation is the last step in a settlement agreement that will allow for clear ownership and use of the sign, which is needed to advertise the new restaurant. He expressed concern for moving in a different direction regarding the sign and the potential for unraveling the settlement agreement that took several years to be reached.

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to close the public hearing. Motion carried 5-0.

Councilmember Hanson questioned proposed changes to the sign, and staff understood that tentative proposed plans include painting the sign structure and using/illuminating it in the same manner as originally approved as part of the planned unit development. Mr. Griffith indicated Group 41 and the new tenant (Mallard's) want to improve the sign; however they cannot make improvements until the terms of the settlement agreement are finalized with approval of the street vacation request. He stated the restaurant tenant would be responsible for the sign improvements. He indicated willingness for Group 41/Mallard's to work cooperatively with the city to address the neighbor's concerns with the sign lighting; however there are no plans to remove the sign. Councilmember Carlson questioned whether the illuminated sign meets city code. Acting Administrator Taylor indicated the property was developed as a planned unit development with special conditions of approval, and records indicate the sign met city code when it was approved in the early 1980's. Mr. Griffith noted that the proposed improvements to the sign would meet the conditions of the original sign approval. Cliff Lewis, manager of the Bayport Marina, stated the new restaurant owner has worked collaboratively to resolve issues with the marina and adjacent condominium owners and believes he will continue to work with the city to address Mr. Geiger's concerns with the sign lighting. Councilmember Goldston noted improvements to the sign are at a standstill until the street vacation is approved.

Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 13-11

A RESOLUTION AUTHORIZING THE VACATION OF A PORTION OF FIFTH AVENUE SOUTH ON THE PLAT OF BAYPORT MARINA, LYING ADJACENT TO OUTLOT D, AND BEING FORMERLY DESCRIBED AS LOT 4, BLOCK 108, BAYPORT (FORMERLY SOUTH STILLWATER), WASHINGTON COUNTY, MINNESOTA UPON A PETITION OF A MAJORITY OF ABUTTING LANDOWNERS

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

Susan St. Ores – aye
Connie Carlson – aye

Dan Goldston – aye
Michele Hanson – aye

Patrick McGann – aye

COUNCIL LIAISON REPORTS

Councilmember Hanson reported the Cable Commission did not meet in May and will have a report for the next meeting.

Councilmember Carlson noted the next meeting of the library board is scheduled for Thursday, June 20, 2013, 6:00 p.m. at the library.

Councilmember McGann reported on the May 20, 2013 Planning Commission meeting. Brad Hallett was sworn in as a new commissioner and Jason Obler was appointed chairperson. The Planning Commission recommended approval of the final plat for Phase III-A of the Inspiration development.

Mayor St. Ores reported on meetings of the Middle St. Croix Watershed Management Organization (MSCWMO), noting that administrator Amy Carolan resigned from the MSCWMO. Jay Riggs is serving as the interim administrator until the position is filled. She also attended a Greater Stillwater Chamber of Commerce reception, the groundbreaking ceremony for the new St. Croix River Crossing Project, ribbon cutting ceremony for Mallard's restaurant, and a MPCA/MDH meeting on the TCE update. She noted the City Council met several times on the selection process for the new City Administrator during the past month. Mayor St. Ores thanked the Bayport American Legion for sponsoring the parade and ceremony on Memorial Day.

STAFF/CITY ADMINISTRATOR REPORTS

Fire Chief Swenson reviewed his written report, noting the department is preparing for the Insurance Services Organization (ISO) rating audit on June 10, the department's first audit in 13 years. A number of equipment deficiencies have been noted during the audit preparation, and the department is preparing a list of items that will need to be addressed in next year's budget. He reported the department has a strong training program in place and all of the new members are working out well.

Police Chief Eastman reviewed her written report, as well as updated the City Council on a search warrant completed May 30 and the subsequent arrest of two individuals on felony-controlled substance charges. She reported the reserve officer program will have 16 members soon, which is the most in the program's history. She noted that most of the reserve officers have gone through peace officer training and are a valuable supplement to the department.

Mel Horak, Public Works Supervisor, reviewed his written report. He also noted the well shaft in wellhouse #3 will be televised next week to determine its condition and whether repairs are needed. The department will be flushing fire hydrants for two weeks, beginning June 10.

Acting Administrator Taylor reviewed her written report, noting four finalists have been identified for the City Administrator position. Candidates will participate in a city tour and final interviews within the next week and it is anticipated a new administrator will be on board by mid July. Proposed plans for improvements to the Perro Park hockey rink and general park area were discussed at a workshop prior to tonight's meeting, and construction on the rink will begin in late summer/early fall. A preliminary plat application for the remaining 110 single-family lots in Inspiration is under review and a public hearing will be held at the Planning Commission meeting on June 10. New signage for the boarding dock and boat trailer parking area is in place at the 4th Avenue North boat launch. The city engineer is finalizing the required permits for repairs to the boat ramp and installation of the boarding dock.

PRESENTATION OF THE 2012 CITY AUDIT

Molly Thompson, CPA with the city's auditing firm of Schlenner Wenner & Co., presented the findings from the city's audit for the year ending December 31, 2012, highlighting the audit results, financial highlights and report to members of governance. She stated the city received a clean, unqualified opinion, and this year's report looks significantly different due to new auditing standards. She reported there were no significant issues discussed with management and no significant difficulties encountered during the audit. It was the consensus of the City Council to accept the findings of the 2012 audit. Finance Officer Wanda Madsen was thanked for her assistance during the audit.

UNFINISHED BUSINESS

Consider membership and donation request from the Greater Stillwater Chamber of Commerce:

Acting Administrator Taylor stated the chamber is requesting a donation of \$1,000.00 to help continue the Community Symposium initiative, which would include a one-year complimentary membership for the city. The city discontinued its membership approximately eight years ago, primarily for budget reasons, and the chamber is encouraging the city to consider renewing its annual membership with the chamber. Discussion followed on the city's involvement with the chamber and benefits of supporting its initiatives. The general consensus of the City Council was to grant the donation request and consider an annual membership in the 2014 budget.

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to donate \$1,000.00 to the Greater Stillwater Chamber of Commerce for 2013, using contingency funds. Motion carried 5-0.

NEW BUSINESS

Consider renewal of the city's residential waste hauling contract with Allied Waste: Acting Administrator Taylor reported that Allied Waste has been the city's residential waste hauler for the past 12 years and the current contract expires on September 30. Allied Waste is proposing contract renewal options for 1, 3 or 5 years. She indicated that overall residents and staff have been pleased with both the services and pricing provided by Allied Waste. Rich Hirstein, Allied Waste, reviewed the three contract extension options and noted his company's desire to provide desirable pricing for the city. He stated the 5-year option includes a decrease in the first year, an average increase of 2.5% in years 2-4, and no increase in year 5. Councilmembers commented on the ease of single-sort recycling, and Mr. Hirstein noted that approximately 80% of Bayport customers utilize the recycling option. He stated that customers have the option of requesting a 90-gallon recycling container, versus a 65-gallon container, or additional recycling containers, at no extra charge. He indicated commercial businesses in the city may also contract with Allied Waste for recycling services.

It was moved by Councilmember McGann and seconded by Councilmember Hanson to authorize renewal of the city's residential waste hauling contract with Allied Waste for 5 years, under the fees, terms and conditions specified. Motion carried 5-0.

Consider a final plat for Phase III-A of the Inspiration development: Acting Administrator Taylor reviewed the growth of the Inspiration development which began in 2004 with approval of a preliminary plat that serves as the master plan for the overall development. The approval included 328 residential housing units, anticipated to be built in three phases. With Phase I nearing completion with the development of 121 single-family lots, the current owner Bayport Mainstreet Holding and builder DR Horton are requesting final plat approval for Phase III-A, to include 16 single-family traditional lots and related infrastructure improvements in the south portion of the development along Prairie Way South. The site area is consistent with the approved preliminary plat, and minimal site improvements will be needed because much of the grading and infrastructure for this area was completed in Phase I of the development. The improvements were reviewed, as well as a proposed change in completion of the trail system. Since the remaining trails are located in an area which has yet to be graded, staff feels it would be appropriate to allow completion of these trails to be deferred until a final plat is proposed for this area, which is anticipated for later this summer. As part of the final plat approval, the developer will also be required to submit the necessary park dedication fees, as well as enter in to a developer's agreement and planned unit development agreement, which specify the approvals and conditions as part of the final plat. The Planning Commission heard the application on May 20 and recommended approval of the final plat. Staff also recommended approval of the final plat, subject to the conditions listed in the staff report.

Acting Administrator Taylor stated no concerns were received from residents and clarified that the city approved the appraiser who is in the process of determining the current land value for all of Phase III.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 13-12

**RESOLUTION APPROVING A FINAL PLAT FOR PHASE III-A OF THE INSPIRATION
DEVELOPMENT, BAYPORT, WASHINGTON COUNTY, MINNESOTA
(AS NOTED ON ATTACHED LEGAL DESCRIPTION)**

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

Susan St. Ores – aye
Connie Carlson – aye

Dan Goldston – aye
Michele Hanson – aye

Patrick McGann – aye

Commercial building improvements at 243 3rd Street North: With further discussion of this item moved to new business, Fire Chief Swenson reported he has been working with the Building Official on how Building Code 1306 impacts fire protection and specifically as it relates to adding fire sprinklers to this property. He stated the cities of Stillwater and Oak Park Heights require the same provisions for their commercial properties and do not deviate from provision 1306. He added that provision 1306 cannot be altered and the city would need to repeal the entire section that was originally adopted in the 1980's and is designed to ensure firefighter and civilian safety. The owners are proposing a change in the building occupancy classification, which requires the installation of a fire sprinkling system for this building that is over 2,000 square feet, per provision 1306. He said he is unaware of any other variance requests for this building code provision and believes the code should be enforced. He added any changes to this building code provision would impact many businesses in the city. Chris Most said the building previously housed a grocery store and other retail businesses and stated his family did not receive notification that the occupancy use had been reclassified to light manufacturing. Acting Administrator Taylor stated the zoning classification has not changed from B-2 Central Business, which allows for a grocery store and retail businesses; however the building code determines the classification for the building, related to fire protection. She stated that with the change of use from the previous tenant's light manufacturing to a retail use, the classification changes and requires fire sprinklers. Mr. Most requested that the City Council suspend the 1306 provision until the city has a clearer picture of how the entire code affects city businesses. He contends that the use classification has always been light retail. Attorney Pratt indicated more research on the issue is needed; however, the City Council may want to retain provision 1306 and adopt a different subpart relating to building size requirements. Discussion followed on the many variables presented with this issue, possible grants and/or financing that would assist the property owner with the expense of sprinkling the building, and the importance of enforcing applicable building and fire codes. Staff was directed to research when and why the occupancy use was reclassified and report to the City Council as soon as possible.

Discuss the feasibility study for a water and sewer utility extension for the property located at 239 1st Avenue South: Engineer Peters reviewed the feasibility report to provide sanitary sewer and water services to properties along 2nd Street South, as requested by the property owner at 239 1st Avenue South, who is considering splitting the single parcel into three lots. The study revealed varying city utility services to the areas under consideration, and Engineer Peters reviewed the most cost-effective connections to serve the proposed parcels. He noted 1st Avenue South and 2nd Street South are gravel roads, and he recommended these existing gravel streets be paved when the improvements are completed.

He added that two additional properties on 2nd Avenue South do not have city sewer and/or city water. With the construction of improvements on 2nd Avenue South for the lot split, the city also examined

reconstructing 2nd Avenue South, from 3rd Street South to Perro Creek, to meet current city standards and provide city utilities to 201 and 204 2nd Avenue South. The estimated improvement costs, proposed assessments and city costs for both projects were reviewed. Staff recommended that the sewer and water main improvements be assessed on a per lot basis and the street and storm sewer improvements be assessed on an adjusted front foot basis. Since Andersen Corporation traffic utilizes 2nd Street South and 2nd Avenue South, staff proposed they be included in the street and storm sewer assessments. Engineer Peters stated the improvements are feasible from an engineering standpoint and recommended that a public improvement hearing be scheduled for the July meeting, as required under 429 standards.

It was moved by Councilmember Hanson and seconded by Councilmember Carlson to set a public hearing for the July 1, 2013 City Council meeting to discuss 2nd Street South and 2nd Avenue South improvements. Motion carried 5-0.

Consider a cooperative agreement with the Department of Natural Resources to supply ramp planks for the 4th Avenue North boat launch and authorize installation of the planks: Engineer Peters reported city staff has reviewed and approved an agreement with the Department of Natural Resources (DNR) to supply ramp planks for the 4th Avenue North boat launch. Upon execution of the agreement, the city can proceed with installation of the planks.

It was moved by Councilmember Carlson and seconded by Councilmember Hanson to approve a cooperative agreement between the State of Minnesota, Department of Natural Resources, and the City of Bayport to supply ramp planks for the 4th Avenue North boat launch. Motion carried 5-0.

Engineer Peters reported the city received two responses to a request for quotes for installation of the concrete planks being supplied by the DNR. Bailey Construction, Stillwater, Minnesota, submitted a quote of \$12,600.00, and the apparent low quoter was Miller Excavating, Stillwater, Minnesota, at \$12,235.00. Since Miller Excavating has completed several projects for the city, staff recommended awarding the contract to Miller Excavating. He explained the quotes also include removal of the existing concrete planks and installation of the bedding underneath the planks and the riprap around the planks. The project may take up to two weeks to complete and is scheduled for completion by the middle of July.

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to award the 4th Avenue North Boat Ramp Installation Project to Miller Excavating, Stillwater, Minnesota, in the amount of \$12,235.00. Motion carried 5-0.

CITY COUNCIL ITEMS AND ANNOUNCEMENTS

1. Councilmember Carlson reiterated her desire that the city determine whether Building Code Provision 1306 was correctly interpreted for the commercial business at 243 3rd Street North.
2. Councilmember McGann requested city staff explore options to reduce the deer population in the city and reported an interested resident may be willing to provide financial support for such an effort. Councilmembers noted that there appears to be an influx of deer displaced with the new bridge construction and requested that staff revisit deer culling options.
3. Mayor St. Ores encouraged residents to take part in the many activities scheduled in Bayport this month.

ADJOURNMENT

It was moved by Councilmember Goldston and seconded by Councilmember McGann to adjourn the meeting at 8:54 p.m. Motion carried 5-0.