

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
DECEMBER 3, 2012  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of December 3, 2012 to order at 6:00 p.m., and asked Councilmembers, staff and the audience to join in pledging allegiance to the American Flag.

**ROLL CALL**

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

Members Absent: None

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

**APPROVAL OF AGENDA**

Assistant Administrator Taylor requested adding *Consider issuance of a new on-sale and Sunday liquor license for the tavern/restaurant establishment located at 193 3<sup>rd</sup> Street North* to new business. Attorney Pratt requested the addition of two additional closed sessions, pursuant to attorney/client privilege under Minnesota Statute 13D.05(3)(b). The first session relates to threatened litigation relating to a proposed action by the city surrounding a sign owned by Group 41, Ltd., on land owned by the Bayport Marina Association. The second session relates to threatened litigation surrounding the employment status of the City Administrator.

It was moved by Councilmember Ostertag and seconded by Councilmember Carlson to approve the amended December 3, 2012 City Council agenda. Motion carried 5-0.

**PROCLAMATIONS/COMMENDATIONS/PETITIONS/ANNOUNCEMENTS**

1. The November recycling award recipient was Jonathan Vollmers who will receive \$30.00 for his recycling efforts, with funding made possible by a grant from Washington County.
2. Mayor St. Ores invited residents to attend the Lighting of the Village Green on Wednesday, December 5 from 6:30 to 8:00 p.m. The event is sponsored by the Bayport Community Action League.
3. Toys for Tots donations will be accepted through December 17, 2012, with drop boxes located at Bayport First State Bank and Trust, American Legion, Croixdale, City Hall and Library.

**OPEN FORUM** - None

**CONSENT AGENDA**

Mayor St. Ores read items 1-13 on the consent agenda. Attorney Pratt indicated that the consent agenda should be revised to remove the phrase "closed session" from item #1 October 9, 2012 City Council special meeting minutes.

Councilmember Carlson introduced the following amended resolution and moved its adoption:

**RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-13 FROM THE  
DECEMBER 3, 2012 CITY COUNCIL AGENDA**

1. October 9, 2012 City Council special meeting minutes
2. November 13, 2012 City Council regular meeting minutes
3. November 19, 2012 City Council workshop meeting minutes
4. November payables and receipts (check numbers 1135167-1135259)
5. November building, plumbing and mechanical permits report
6. Commercial refuse hauling license renewals for 2013
7. Non-union employee holidays for 2013
8. Liquor and tobacco license renewals for 2013
9. City Council regular meeting dates for 2013
10. Purchase of replacement water hose equipment for two fire vehicles
11. Consider special event application from Janine Dierickx and Jason Moe for wedding reception at Lakeside Park on Saturday, July 27, 2013
12. Renewal of employee health and dental insurance policies
13. City park bench donation from Robin and Dave Schiebel

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

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

**PUBLIC HEARINGS**

Certification of past due waste collection, water/sewer, and delinquent vacant building registration fees to 2012 property taxes: Administrator Berg reported that property owners were notified in October of past due garbage, water/sewer and vacant building registration fees and the right to appeal at tonight’s meeting. No written appeals were received by the city; however he noted that David See, 387 South 2<sup>nd</sup> Street, paid his delinquent water/sewer bill and should be removed from the certification list. Staff recommended certifying the proposed lists to Washington County.

Mayor St. Ores opened the public hearing and no comment was heard.

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

It was moved by Councilmember Ostertag and seconded by Councilmember Hanson to accept staff’s recommendation to levy the presented lists of past due waste collection, water/sewer and vacant building registration fees to Washington County for assessment to the 2012 property taxes, with the removal of David See from the water/sewer list. Motion carried 5-0.

**COUNCIL LIAISON REPORTS**

Mayor St. Ores attended the November meeting of the Middle St. Croix Watershed Management Organization (MSCWMO) and noted the organization is looking into a new office space.

Councilmember Carlson reported the library would be hosting a story hour beginning at 5:45 p.m., on Wednesday, December 5, in conjunction with the Lighting of the Green. The next Library Board meeting is scheduled for Thursday, December 20, 2012, at 5:30 p.m.

## **STAFF/CITY ADMINISTRATOR REPORTS**

Fire Chief Swenson reviewed November activity and noted the department is anticipating hiring three new members by the end of February. He indicated staff is revising procedures for reporting and tracking department call volumes and will be moving to monthly, versus quarterly, reporting. Councilmember Ostertag noted that the department expects to realize over 1,000 calls this year, compared to an average of 750.

Police Chief Eastman reviewed recent department activity and encouraged participation in the Toys for Tots campaign. She acknowledged the enhanced working relationship between the Fire and Police Departments.

Public Work Supervisor Horak reviewed his written report. In addition, he reported staff met with Northern Natural Gas personnel who have been mandated to clear brush and trees from their gas line easement, located at the south end of the city limits that runs from the St. Croix River through Inspiration. He stated the east-west pipeline easement runs predominantly along 4<sup>th</sup> Avenue and some of the work will be on private property. Staff emphasized the need to minimize impacts on private property and to communicate with property owners. He also noted staff has decided to wait until spring to install the new waste receptacles and planters along Highway 95, to minimize potential damage.

Assistant Administrator/Planner Taylor reviewed her report and noted that staff has tentatively scheduled a City Council workshop at 4:30 p.m., Monday, January 7, 2013, to discuss a preliminary master plan for Perro Park. Upon adoption of the 2013 fee schedule, staff will update city application forms, as necessary, and have them available by December 12 on the city website and at City Hall. She noted that park reservations for Bayport residents will be accepted January 1-15, to allow residents the opportunity to secure a preferred date, prior to opening reservations to the general public.

City Administrator Berg reviewed the highlights of his report, noting that the city is eligible to receive a grant of up to \$72,056.00 from the Metropolitan Council for the inflow and infiltration project. The grant represents 34% of the project cost. He said the city must notify the Metropolitan Council by December 21 if the city wants to opt out of the grant award.

## **PUBLIC INPUT (TRUTH IN TAXATION) ON 2013 CITY BUDGET AND LEVY**

Mayor St. Ores opened the Truth in Taxation public input session and the following were heard:

Ron Shelton, owner of the Beach House and River Park Marinas in Bayport, inquired about appealing the assessed valuation on his property. Administrator Berg stated this would occur at the Washington County open book sessions next spring.

It was moved by Councilmember Ostertag and seconded by Councilmember Carlson to close the public input session. Motion carried 5-0.

Administrator Berg summarized the discussion at the December 3, 2012 City Council budget workshop meeting. Councilmembers discussed four budget options and the consensus was to retain the tax levy increase as adopted in September (2.15%), eliminate the proposed part-time Public Works position, and reallocate certain dollars from wages to fund additional park maintenance and future City Council priorities. The proposed final tax levy is \$999,981.00 for the General Fund and \$160,000.00 for the Library Fund, for a total tax levy of \$1,159,981.00.

Discuss and consider a resolution adopting the 2013 tax levy:

Councilmember Ostertag introduced the following resolution and moved its adoption:

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
CERTIFYING THE CITY OF BAYPORT’S LEVY TO WASHINGTON COUNTY FOR THE  
YEAR 2013 BUDGET AT \$1,159,981.00**

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

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|----------------------|----------------------|
| Susan St. Ores – aye | Michele Hanson – aye |
| Connie Carlson – aye | Mark Ostertag – aye  |
| Dan Goldston – aye   |                      |

Discuss and consider a resolution adopting the 2013 budget:

Councilmember Ostertag introduced the following resolution and moved its adoption:

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
ADOPTING THE CITY BUDGET FOR 2013**

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 | Michele Hanson – aye |
| Connie Carlson – aye | Mark Ostertag – aye  |
| Dan Goldston – aye   |                      |

Discuss and consider a resolution adopting the 2013 capital improvement plan (CIP):

Councilmember Ostertag introduced the following resolution and moved its adoption:

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
ADOPTING THE CAPITAL IMPROVEMENT PLAN FOR 2013**

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

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|----------------------|----------------------|
| Susan St. Ores – aye | Michele Hanson – aye |
| Connie Carlson – aye | Mark Ostertag – aye  |
| Dan Goldston – aye   |                      |

**UNFINISHED BUSINESS**

Consider 2013 - 2015 labor agreement with Law Enforcement Labor Services, Inc., Local Public Employee Union #226: Administrator Berg recommended approval of the three-year agreement, as discussed at the November 13 City Council meeting, and affirmed by Councilmembers at the December 3 budget workshop.

It was moved by Councilmember Ostertag and seconded by Councilmember Goldston to authorize the city to enter into a labor agreement with the Law Enforcement Labor Services, Inc., Local Public Employee Union #226, effective January 1, 2013 to December 31, 2015. Motion carried 5-0.

Consider revisions to Appendix D – Fee Schedule of the Bayport City Code: Administrator Berg reviewed the updates to the proposed fee schedule since the last meeting, as recommended by the City

Council. Upon a recommendation by Mayor St. Ores, staff is also proposing the addition of a park damage deposit fee of up to \$500.00, to be applied at the discretion of staff.

Councilmember Carlson introduced the following ordinance, adding a refundable park damage deposit fee as proposed by staff, and moved its adoption:

**Ordinance #833**

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
AMENDING APPENDIX D, FEE SCHEDULE, OF THE CITY CODE**

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

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

Consider authorization to hire a lobbyist to secure state funding for TCE treatment/infrastructure improvements: Administrator Berg reported staff did not conduct interviews as planned, due to the uncertainty of the city being successful in obtaining state bonding dollars in 2013, and recommended tabling further discussion at this time. Staff will continue to work with other communities that are facing similar funding issues for infrastructure improvements. Administrator Berg indicated if there is further momentum at the Legislature or through discussions with other communities, he would update the City Council.

It was moved by Councilmember Carlson and seconded by Councilmember Ostertag to table discussion to a future meeting, upon discretion of staff. Motion carried 5-0.

**NEW BUSINESS**

Consider a reappointment and a new appointment to the Planning Commission: Assistant Administrator Taylor reported the terms of Commissioners Jason Obler and David Levy expire December 31, 2012. Commissioner Obler indicated his interest in serving another term and therefore staff recommended his reappointment for a three-year term. Commissioner Levy is not seeking reappointment. As such, two applicants were interviewed for the vacancy and the interview panel is recommending the appointment of J. Brad Hallet to fill the vacant seat for a three-year term. David Levy was thanked for his six years of service to the city.

It was moved by Councilmember Ostertag and seconded by Councilmember Goldston to appoint Brad Hallet and reappoint Jason Obler to three-year terms on the Planning Commission, effective January 1-2013-December 31, 2015.

Consider a reappointment to the Library Board: Councilmember Carlson recognized Amy Zimmer's efforts on behalf of the Library Board.

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to reappoint Amy Zimmer to a three-year term on the Library Board, effective January 1, 2013-December 31, 2015.

Consider appointments, designations, and City Council liaison assignments for 2013: Councilmembers expressed their desire to continue their current liaison assignments. Administrator Berg noted staff is consolidating the city's financial advisors and recommended the following for 2013:

Deputy Mayor	Connie Carlson
City Attorney	Eckberg Law Firm

City Engineer	SEH (Barry Peters)
City Auditor	Schlenner Wenner and Co.
Deputy City Clerk	Assistant City Administrator (Sara Taylor)
Emergency Preparedness	Fire Chief (Mark Swenson)
Deputy Fire Chief	Mike Galowitz
Weed Inspector	Mayor (Susan St. Ores)
Assistant Weed Inspector	Public Works Supervisor (Mel Horak)
Animal Control	Police Chief (Laura Eastman)
Assessor	Washington County
Official Depository	First State Bank
Official Newspaper	Stillwater Gazette
Animal Impound Agency	St. Croix Animal Shelter-Woodbury
On Site Septic Inspection	Washington County
Financial Advisor	Northland Securities, UBS, FTN, and ICDI
Planning Commission Liaison	Michele Hanson / Susan St. Ores, alternate
Library Board Liaison	Connie Carlson / Michele Hanson, alternate
Cable Commission Liaison	Mark Ostertag / Connie Carlson, alternate
Middle St. Croix Watershed Liaison	Susan St. Ores / Dan Goldston, alternate
Lower St. Croix Partnership	Dan Goldston / Mark Ostertag, alternate
Andersen Citizen Advisory Liaison	Dan Goldston / Michele Hanson, alternate

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to approve the appointments, designations and City Council liaison assignments for 2013. Motion carried 5-0.

Consider issuance of a new on-sale and Sunday liquor license for the tavern/restaurant establishment located at 193 3<sup>rd</sup> Street North: Assistant Administrator/Planner Taylor reviewed an application from Robert Schuster, B-E Squared, Inc., for an on-sale and Sunday liquor license for Hefty's Roadhouse, effective January 1, 2013. Mr. Schuster will be leasing and operating the establishment from owners Jeff and Missy Hause. A background investigation on Mr. Schuster did not reveal any negative information that would disqualify him from holding the proposed liquor licenses, and staff is recommending approval of the requested licenses. Councilmember Ostertag noted there is a conditional use permit for the establishment and the need to abide by the conditions surrounding outdoor liquor consumption.

It was moved by Councilmember Hanson and seconded by Councilmember Carlson to approve the issuance of an on-sale and Sunday liquor license to Robert Schuster, B-E Squared Inc., for the tavern/restaurant establishment located at 193 3<sup>rd</sup> Street North, subject to approval of Minnesota Alcohol and Gambling Enforcement Division, effective January 1, 2013. Motion carried 5-0.

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

1. Councilmember Ostertag thanked supporters of the Fire Department's efforts during November that realized over \$15,000.00 in donations to fight prostate cancer.
2. Mayor St. Ores and Councilmember Hanson attended a recent dinner at the Bayport American Legion celebrating its 90<sup>th</sup> anniversary.

Adjourn to closed session pursuant to 13D.05(3)(c) to review confidential or protected nonpublic appraisal data and to develop or consider offers or counteroffers for the purchase or sale of real or personal property: Attorney Pratt identified the properties to be discussed in closed session as 143 3<sup>rd</sup> Street North and 169 3<sup>rd</sup> Street North, Bayport, Minnesota.

Attorney Pratt reviewed his earlier request for two additional closed sessions under the attorney-client privilege, pursuant to Minnesota Statute 13D.05(3)(b), and indicated one motion to adjourn to closed session would be sufficient for the three separate sessions.

## **ADJOURNMENT**

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to adjourn to closed session at 7:00 p.m. Motion carried 5-0.

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City Administrator/Clerk