

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
JULY 6, 2010
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of July 6, 2010 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 Jon Nowaczek, Councilmembers Connie Carlson, Dan Johnson, Torry Kraftson and Judy Seeberger

Members Absent: None

Others Present: Administrator Mitch Berg, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, and Attorney Nick Vivian

APPROVAL OF AGENDA

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to approve the July 6, 2010 agenda. Motion carried.

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. The June recycling award was given to Dan Peulen.

OPEN FORUM

1. Kathy Saltzman, Minnesota State Senator from District 56, and Minnesota State Representative Julie Bunn provided legislative updates, including information on the moratorium on local fly ash disposal sites and decision-making authority along the St. Croix River. Councilmembers expressed gratitude for assistance rendered by both legislators.

CONSENT AGENDA

Mayor Nowaczek read items 1-5 on the consent agenda.

1. June 7, 2010 City Council regular meeting minutes
2. June payables and receipts
3. June building, plumbing and mechanical permits report
4. Special event application from BCAL for Derby Days on Saturday, September 18, 2010
5. Authorization to fill vacancies on the Fire Department

Councilmember Johnson introduced the following resolution, and moved its adoption:

Resolution 10-13

**A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-5 FROM THE
JULY 6, 2010 CITY COUNCIL AGENDA**

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

Jon Nowaczek – aye
Connie Carlson – aye
Dan Johnson – aye

Torry Kraftson – aye
Judy Seeberger – aye

RIVERFRONT ADVISORY COMMISSION REPORT

Commissioner Lanz summarized the proceedings of the June 8, 2010 meeting. She noted that each commissioner was assigned to bring a vision and list of goals for the riverfront to the Tuesday, July 13, 2010 meeting at City Hall. The public is encouraged to attend.

COUNCIL LIAISON REPORTS

Councilmember Seeberger reported on the June 21, 2010 Planning Commission, noting that the application for an ordinance amendment and conditional use permit to allow a limited transit vehicle storage facility at 204 2nd Avenue South was withdrawn prior to the meeting, with the intent to resubmit a more detailed application requesting maintenance to be performed at the site. She noted that the Planning Commission recommended a conditional use permit for 174 3rd Street South to allow automotive sales and open lot outdoor display. On a related note, Mayor Nowaczek noted there were three new residential construction permits issued in June.

Councilmember Kraftson reported that the Middle St. Croix Watershed Management Organization (MSCMWO) did not meet in June, and the next meeting is scheduled for Thursday, July 8, 2010, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson was unable to attend the June 24, 2010 meeting of the Library Board; however, he noted appointing a new member to the board will be acted upon later in this meeting. The next meeting is scheduled for Thursday, July 22, 2010, 6:00 p.m. at the library and the public is invited to attend.

Councilmember Johnson reported on the June 30, 2010 meeting of the Lower St. Croix Partnership. The meeting was held at the Lakeside Park beach house and the members were impressed with the facility. The Minnesota and Wisconsin Department of Natural Resources (DNR) agencies will be sponsoring a boat cruise on the St. Croix River on Wednesday, July 21, 2010, 6:00-9:00 p.m., departing from the Hudson Cruise Lines dock. The cost is \$15, which includes a light supper. Registrations can be made through the Minnesota DNR, at stcroixriverassociation.org, and a registration link will be added to the City of Bayport's website.

Councilmember Carlson reported that the next meeting of the Joint Cable Commission has not yet been scheduled.

PUBLIC HEARING

Consider vacation of easement and revised Easement Agreement for access to "Ice Road": Mayor Nowaczek explained that the public hearing does not pertain to the existence of the "ice road," rather the vacation easement and revised agreement update maps and the legal description of the road as it is actually used. Administrator Berg noted that notification of the public hearing was sent to abutting property owners, as directed by state statute. He noted there are minor discrepancies in the legal description of the existing easement as published in the public hearing notice. Upon review of the easement language by the city attorney and Waterford attorney, it was recommended to move forward with the public hearing and insert the correct easement description in the recorded documents, if the City Council approves the easement vacation and revised easement agreement.

Mayor Nowaczek opened the public hearing and the following were heard:

Harold Radke, 521 Mariner Drive, questioned whether this road would continue to be the only winter access to the river and whether a 20-foot easement was wide enough to allow vehicles to pass safely.

Chris Hayner, 11 Point Road and owner of a unit in Waterford Condominiums, had concerns with the easement agreement language indicating “for ingress and egress to the St. Croix River.” He stated the Waterford property goes to Maine Street on the west side, not to the river, and he would like the agreement changed to read Maine Street, to avoid possible misinterpretation of where people can drive on the Waterford property, and to be consistent with the legal description. Mr. Hayner also expressed his concern with vehicles being able to safely pass each other on a substandard 20-foot easement road and proposed options that would provide a safer route to and from the river.

Don Harvieux, 595 Lakeside Drive South, questioned whether the city had considered alternatives for access to the river and the liability issues surrounding the ice road. He noted he was involved in a motor vehicle accident this past winter when a vehicle using the ice road broadsided his vehicle near the top of the ice road.

Nancy Nelson, President of the Waterford on the St. Croix Condominium Association, stated that the association board had approved the easement agreement, provided the easement language is corrected and Waterford’s indemnification for liability issues is clarified.

It was moved by Councilmember Seeberger and seconded by Councilmember Carlson to close the public hearing. Motion carried.

Discussion followed on the indemnification language, the safety issue of maintaining a 20-foot roadway, and adding signage and snowplowing beyond the 20-foot easement. Ms. Nelson indicated the association board would need to approve additional language relating to any proposed activity outside the 20-foot easement. Mayor Nowaczek noted that additional easement issues, including those involving Bayport Estates and Mr. Harvieux’s concerns, would be handled separately from tonight’s public hearing.

It was moved by Councilmember Johnson and seconded by Councilmember Kraftson to continue consideration of this matter to the August 2, 2010 meeting, with direction to the city attorney to modify paragraph 5, Maintenance, of the easement agreement that would allow the city to post necessary signage for safe use of the easement and to remove snow through conventional methods from the entire easement. Motion carried.

Mr. Radke commented that he appreciated the City Council’s recommendation to post signage along the ice road, noting vehicles have left ruts along the easement when they pull off to allow safe passing. He also suggested the city should take full ownership of the ice road, which would free the Waterford Condominium owners from liability issues.

UNFINISHED BUSINESS

Consider an appointment to the Library Board: Administrator Berg noted that the city did not receive any additional applications for the position and recommended that applicant Amy Zimmer be appointed to fill the vacancy on the Library Board. Councilmember Johnson encouraged residents to inform city staff if they are interested in serving on city committees or boards.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to appoint Amy Zimmer to the Bayport Library Board. Motion carried.

NEW BUSINESS

Consider a conditional use permit (CUP) to allow automotive sales and open lot outdoor display at 174 3rd Street South: Assistant City Administrator/Planner Taylor reviewed the application for a conditional use permit (CUP) to allow automotive sales and open lot outdoor display for this property located in the B-2 Central Business district. She noted that in 2008, the property owner was granted variances to construct a new two-story office/retail building; however the owner has been unable to construct the building due to the economic market. The owner is developing a long-term plan for the site and would like to lease the site short-term for onsite and online sale of automobiles and recreational vehicles. A CUP is required for automotive sales and outdoor display in this zoning district. The proposed business hours and business plan improvements were reviewed. The owner is requesting deferral of major required site improvements for one year, to avoid the cost of substantial improvements, and to allow time to develop the long-term business plan, which may not include automotive sales. Staff recommended approval of the CUP and deferral of the major site improvements for one year. At the June 21, 2010 public hearing, the Planning Commission recommended allowing the sale and outdoor display of recreational vehicles, with no restrictions on the outdoor display of vehicles. Staff, however, recommended the City Council specify a limitation on the total number of vehicles permitted for open lot display at any given time and suggested a limit of 20 vehicles as designated on the site plan. Staff also recommended that an 8-foot solid wood fence be installed along the west and north property lines, as suggested by the adjacent property owners, as a condition of approval. Planner Taylor noted that the CUP would be reviewed in one year, at which time the conditions could be modified. Discussion followed on open lot outdoor display restrictions, future potential for the property, a possible moratorium on automobile sales, visibility issues, and securing recreational vehicles during non-business hours.

Jeff Hause, property owner, stated that restricting the number of displayed automobiles and recreational vehicles may prohibit the applicant from opening the business. He requested flexibility from the City Council and indicated their intent is to have an esthetically pleasing display lot.

Councilmember Kraftson introduced the following resolution, with the findings of fact and conditions of approval as presented by staff, adding an unlimited number of vehicles could be displayed within the spaces designated as display parking in accordance with the drawing as submitted with the conditional use application, and moved its adoption. He amended the motion to revise the findings of fact, item D, to read: "General business hours will be Monday through Saturday, 9:00 a.m. – 9:00 p.m. The outdoor open lot display shall be contained within the area delineated on the approved site sketch."

Resolution 10-14

RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP) TO ALLOW AUTOMOTIVE SALES AND OPEN LOT OUTDOOR DISPLAY AT 174 3RD STREET SOUTH, LEGALLY DESCRIBED AS BLOCK 71, LOTS 7-9, EXCEPT TO BAYPORT FOR ROAD ON LOT 9, BAYPORT, WASHINGTON COUNTY, MINNESOTA

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

Jon Nowaczek – aye	Torry Kraftson – aye
Connie Carlson – aye	Judy Seeberger – aye
Dan Johnson – aye	

Councilmembers clarified that the motion includes 24-hour outdoor lot display of all vehicles and that the property owner is responsible for the maintenance of the wooden fence.

Consider an ordinance amendment to Appendix D – Fee Schedule regarding park use and special event fees: Administrator Berg reviewed proposed fees for exclusive use of the city’s ball fields, volleyball courts, soccer fields and tennis courts; the addition of a reduced special event application fee of \$15.00 for public entities and non-profit organizations; and an increase from \$10.00 to \$25.00 for an annual boat trailer parking sticker. He stated that the St. Croix Valley Athletic Association, which reserves the majority of the fields for exclusive use, understands the need for the proposed fees. Staff recommended approval of the ordinance amending the fee schedule. Discussion followed on offering a reduced rate schedule for public entity/non-profit organizations requesting to reserve park fields and courts. Administrator Berg stated he would follow-up with the Public Works department regarding completion of the new volleyball court.

Councilmember Kraftson introduced the following ordinance, amending the park usage fees for the two Barker’s Alps ball fields, Lakeside Park and Perro Park ball fields, and Barker’s Alps soccer field to a seasonal maximum of up to \$50.00, and moved its adoption:

Ordinance #817

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

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

Jon Nowaczek – aye	Torry Kraftson – aye
Connie Carlson – aye	Judy Seeberger – aye
Dan Johnson – aye	

Consider an ordinance amendment to Chapter 2 – Administration regarding City Council wages: Administrator Berg reviewed a proposed ordinance that would freeze wages for City Councilmembers in 2011 and explained the legislative statutes affecting such action. He indicated individual council-member requests to adjust 2010 wages could be handled administratively. Discussion followed on options for adjusting salaries in 2010 and the importance of the wage freeze in light of the reduction in city staff paid hours.

Councilmember Kraftson introduced the following ordinance and moved its adoption:

Ordinance #818

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE II, DIVISION II,
OF THE BAYPORT MUNICIPAL CODE REGARDING
MAYOR AND CITY COUNCIL SALARIES**

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

Jon Nowaczek – aye	Torry Kraftson – aye
Connie Carlson – aye	Judy Seeberger – aye
Dan Johnson – aye	

Consider adopting the City of Bayport Strategic Planning Report: Councilmembers discussed the report that summarizes the three sessions conducted with the City Council and city staff, noting it is a guiding document that will be used during an upcoming 2011 budget workshop. Residents were encouraged to review the document at City Hall or on-line at the city’s website, www.ci.bayport.mn.us.

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to adopt the 2010 Strategic Planning Report. Motion carried.

Consider establishing an early retirement incentive program for city employees: Administrator Berg reviewed the criteria and terms of a proposed early retirement program, offered as a means to help offset the city's budget shortfall. He indicated three employees are eligible to participate and that both unions have agreed to the terms of the program. Employees who elect to participate in the program would enter into a formal separation agreement with the city, and the separation agreement(s) would be approved by the City Council. Discussion followed on the impact the early retirement incentive program may have on staffing levels, with a hiring freeze in effect.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to approve the establishment of an early retirement incentive program for city employees as documented in the staff memorandum dated June 22, 2010. Motion carried.

COUNCIL ITEMS AND ANNOUNCEMENTS

1. Councilmember Seeberger recognized Chief Eastman and the Police Department for organizing the recent Citizen's Academy. She stated it was a very successful and informative program and encouraged residents to take advantage of the program when it is offered again. Councilmember Carlson also acknowledged the merits of the Citizen's Academy.
2. Councilmember Seeberger provided an update on the Beyond the Yellow Ribbon campaign, noting that the community is embracing the campaign, including efforts by the residents of Croixdale.

CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS

City Administrator update: Administrator Berg noted that seal coating will begin in August; Yaminah Oliver, a Hamline University graduate student, is interning at City Hall this summer on Tuesday and Thursday; and work on the City Hall roof will begin the week of July 12, 2010.

Set a budget workshop for August 2, 2010 at 4:30 p.m.: Councilmembers discussed meeting date options and decided to proceed with the workshop on August 2nd, although Councilmember Kraftson will not be able to attend.

It was moved by Councilmember Seeberger and seconded by Councilmember Carlson to set a budget workshop for Monday, August 2, 2010, at 4:30 p.m. Motion carried.

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to adjourn the meeting at 8:50 p.m. Motion carried.

City Administrator/Clerk