

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
AUGUST 2, 2010
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of August 2, 2010 to order at 6:10 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, and Judy Seeberger

Members Absent: Councilmember Torry Kraftson

Others Present: Administrator Mitch Berg, Fire Chief Mike Bell, Police Chief Laura Eastman, Public Works Supervisor Mel Horak, 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 August 2, 2010 agenda. Motion carried.

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. The July recycling award was given to Terry Anderson.
2. Mayor Nowaczek declared Tuesday, August 3, 2010 as Night to Unite, an event coordinated by the Bayport Police Department. It will be held at Lakeside Park from 5:00 p.m.–8:00 p.m. He noted that the Foundation for the Bayport Public Library, in partnership with the Metropolitan Library Service Agency, using legacy funds from Minnesota's Arts and Cultural Heritage Fund, would be sponsoring a community dance from 6:00-8:00 p.m. All residents were encouraged to attend this community event.

OPEN FORUM

1. Harold Radke, 521 Mariner Drive, expressed concerns with the easement language for the proposed ice road and stressed that the city should build and maintain a safe public access to the river. He believes the indigenous trees on the side of the roadway would be compromised if snow is deposited outside of the 20-foot wide easement.

CONSENT AGENDA

Mayor Nowaczek read items 1-14 on the consent agenda.

1. July 6, 2010 City Council regular meeting minutes
2. July payables and receipts
3. July building, plumbing and mechanical permits report
4. Renewal of 2:00 a.m. on-sale liquor license for Woody's Bar and Grill located at 109 3rd Street North, Bayport, Minnesota 55003
5. Acceptance of grant for alcohol compliance checks at Bayport establishments

6. Temporary on-sale liquor license for Bayport Marina located at 200 5th Avenue South, Bayport, Minnesota on August 14, 2010
7. Special event application for Church of St. Charles Oktoberfest fundraiser on Saturday, October 9, 2010 at Perro Park
8. Temporary on-sale liquor license for Church of St. Charles located at 409 3rd Street North, Bayport, Minnesota on October 9, 2010
9. Acceptance of Stillwater School District's request to terminate its role as fiscal agent for the St. Croix Valley Area Community Family Center
10. Purchase of turnout gear for the Fire Department
11. Re-appointment of Mike Bell as Fire Chief of the Bayport Fire Department
12. Fireworks display permit for BCAL Derby Days on Saturday, September 18, 2010
13. Purchase of trash basket for Inspiration lift station
14. Municipal Recycling Grant Agreement with Washington County for 2010-2011

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

Resolution 10-15

**A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-14 FROM THE
AUGUST 2, 2010 CITY COUNCIL AGENDA**

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

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

RIVERFRONT ADVISORY COMMISSION REPORT

Commissioner Dan Goldston summarized the proceedings of the July 13, 2010 meeting, noting work continues on defining goals and a vision statement. The next meeting is scheduled for Wednesday, August 11, 2010, 6:00 p.m., at the Lakeside Park Beach House, and the public is encouraged to attend.

COUNCIL LIAISON REPORTS

Councilmember Seeberger reported on the July 19, 2010 Planning Commission meeting. The Planning Commission recommended rezoning of parcels in St. Michael's Cemetery to R-2 Single-family Urban. The next meeting is scheduled for Monday, August 16, 2010, 6:00 p.m., at City Hall.

Councilmember Johnson reported on the July 29, 2010 meeting of the Library Board. He noted another Girl's Night Out fundraiser is being planned for November, and the library will be participating in the Night to Unite event on August 3rd. The next meeting is scheduled for Thursday, August 26, 2010, 6:00 p.m. at the library and the public is invited to attend.

Councilmember Carlson reported the Cable Commission would be meeting on August 4, 2010 at 5:00 p.m. to discuss the 2011 budget, and on August 18, 2010, at 7:00 p.m., for regular business. Meetings are held at the Valley Ridge Mall.

PUBLIC HEARING - None

UNFINISHED BUSINESS

Consider vacation of easement and revised easement agreement for access to "Ice Road":

Administrator Berg reviewed language added to the easement agreement since the last meeting regarding signage and snow deposits outside of the 20-foot easement, as well as to Exhibit B, Legal Description for Actual Location of Easement, and text corrections noted by resident Harold Radke. He

requested that a motion to approve the vacation be contingent upon approval of the final easement agreement with the city by Waterford Association members. Discussion followed on the existing roadway encroaching on the railroad right-of-way, and staff reported a portion of the roadway would need to be moved approximately five feet to correct the encroachment. Public Works Supervisor Horak indicated the road most likely shifted to the west, away from the berm, as the plantings on the berm matured. He stated his department grades the road each fall and trims back branches to avoid scratches to the city plow trucks. He believes the Public Works department could realign the road with minimal cost. Staff clarified that the easement under discussion is entirely on the Waterford property, and the proposed legal description does not affect railroad property. Attorney Vivian stated that in multiple discussions with the Waterford Association Board and attorney, no concerns were raised regarding the impact snowplowing might have on trees or the berm along the roadway. It was noted that Mr. Radke's concerns regarding compliance with city ordinances and other legislation relating to road design standards and the drainage ditch are not applicable.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to authorize the Mayor and City Administrator to enter into an easement agreement between Waterford on the St. Croix Condominium Association, Inc., a Minnesota corporation, and the City of Bayport, for the easement as described in Exhibit B, with the intent that the City of Bayport would then vacate the road described in Exhibit A. Motion carried.

Councilmember Johnson then introduced the following resolution and moved its adoption, contingent upon Waterford on the St. Croix Condominium Association, Inc., executing the easement agreement previously authorized by the Bayport City Council.

Resolution 10-16

**A RESOLUTION VACATING A PORTION OF AN EXISTING PUBLIC EASEMENT
COMMONLY REFERRED TO AS THE "ICE ROAD EASEMENT"**

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

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

Consider TIF analysis and financial analysis report: Rusty Fifield, Northland Securities, reviewed findings and three recommendations for the management of the city's Tax Increment Financing (TIF) District #1. He noted there is a sufficient balance to meet the \$38,000.00 debt service levy for 2010 taxes, and the tax levy is no longer needed to support the debt. He estimates the city could decertify the TIF district in 2013. Administrator Berg recommended authorizing recommendations one and two, to eliminate future debt levies and to defease the 2001 bonds before final payment.

It was moved by Councilmember Johnson and seconded by Councilmember Seeberger to accept the TIF Analysis and Financial Report from Northland Strategies. Motion carried.

Consider early retirement application and separation agreement for Vern Thompson: Administrator Berg reviewed the early retirement application and separation agreement submitted by Vern Thompson of the Public Works department. He noted that the collective bargaining unit representing Mr. Thompson has signed a memorandum of understanding regarding the terms of the separation agreement. Mayor Nowaczek recognized Mr. Thompson's years of service.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to accept the 2010 early retirement incentive and separation agreement for Vern Thompson. Motion carried.

NEW BUSINESS

Consider rezoning existing parcels of St. Michael’s Cemetery to R-2 Single-family Urban, located on 6th Street North: Assistant Administrator/Planner Taylor reviewed the application that would combine all parcels in St. Michael’s Cemetery into the R-2 Single-family Urban zoning designation. She noted that since the cemetery use was in effect prior to the city’s zoning code, it may continue as a legally non-conforming use without a conditional use permit. As part of the development of additional grave plots, the property owner, St. Charles Church, is working with the state to rectify a property boundary discrepancy on the west side of the cemetery. The church is also requesting the vacation of certain platted public rights-of-way located throughout the cemetery, which will be addressed as a separate agenda item. If the rezoning is approved, the church plans to offer additional gravesites in the southeast portion of the cemetery, and the area would ultimately contain a circular access drive off 6th Avenue North. The Planning Committee recommended approval of the application at its July 19, 2010 meeting, subject to the findings of fact and conditions of approval recommended by staff. The Planning Commission also recommended approval of a request from the church to allow the use of aggregate or a similar material for the new access drive(s) and defer paving with bituminous or concrete for up to two years from the time of initial construction. Staff recommended approval of the rezoning application, with the conditions listed in the staff report. Councilmember Seeberger, Planning Commission liaison, noted that at the public hearing, the property owner on the southeast corner of the cemetery had no objections to the proposed boundary fence and landscape buffer.

Councilmember Seeberger introduced the following resolution and moved its adoption:

Resolution 10-17

RESOLUTION APPROVING THE REZONING OF EXISTING PARCELS OF ST. MICHAEL’S CEMETERY TO R-2 SINGLE-FAMILY URBAN, LOCATED ON 6TH STREET NORTH, BAYPORT, WASHINGTON COUNTY, MINNESOTA

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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| Jon Nowaczek – aye | Dan Johnson – aye |
| Connie Carlson – aye | Judy Seeberger – aye |

Consider establishing a public hearing to review the requested vacation of public rights-of-way located within St. Michael’s Cemetery at the September 7, 2010 City Council meeting:

Councilmember Seeberger introduced the following resolution and moved its adoption:

Resolution 10-18

RESOLUTION SETTING A PUBLIC HEARING ON VACATION OF PUBLIC RIGHTS-OF-WAY

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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| Jon Nowaczek – aye | Dan Johnson – aye |
| Connie Carlson – aye | Judy Seeberger – aye |

Consider adopting a PERA leave certification program for non-union, full-time city employees:

Administrator Berg explained recent State of Minnesota legislation and the proposed resolution that would allow city employees who took furlough time in 2009 to maintain a fully whole salary for PERA eligibility purposes. Employees would contribute their portion and the city would make the employer contribution, plus interest. He noted the employer contribution of less than \$750.00 is an unbudgeted item but recommended participation in the program to show appreciation to staff who took furlough time to help with budget cuts.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 10-19

**RESOLUTION APPROVING PARTICIPATION IN A LEAVE CERTIFICATION PROGRAM-
BUDGET SAVINGS LEAVE PROGRAM**

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

Jon Nowaczek – aye

Dan Johnson – aye

Connie Carlson – aye

Judy Seeberger – aye

2011 BUDGET

Consider recommendations from the August 2, 1010 Special City Council Budget Workshop: Mayor Nowaczek summarized the discussions at the 2011 budget workshop, held prior to the regular City Council meeting. Councilmembers and staff reviewed options for expense reductions and potential revenue opportunities. Highlighted options include:

- implementing franchise fees on utility billings that could generate \$50,000.00-75,000.00 annually;
- utilizing staff furloughs in 2011;
- using special levies and/or special assessments;
- using between 10-15% of the tax stabilization funds to offset 2011 revenue shortfalls;
- restructuring and/or eliminating city departments.

It was the consensus of the City Council that Police Department services should not be eliminated, cut back, or outsourced at this time. Based on direction from the City Council, staff will prepare a draft 2011 budget for consideration at the September City Council meeting.

COUNCIL ITEMS AND ANNOUNCEMENTS

1. Councilmember Seeberger provided an update on the Beyond the Yellow Ribbon Campaign and recognized Police Chief Eastman's efforts in developing an action plan for the local group. She noted the group would have a booth at Bayport's Night to Unite event on August 3, 2010. Councilmember Seeberger was thanked for her time and efforts on the project.
2. Mayor Nowaczek reminded the public that the filing period for the three open seats on the Bayport City Council runs from August 3-17, 2010, during City Hall business hours.

CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS

City Administrator update: Administrator Berg stated the city had received a letter from LELS, the Police Department's collective bargaining unit, indicating they had withdrawn their grievance against the city. He encouraged councilmembers and attendees to view the flashing pedestrian signs on display in the lobby and provide input on whether the signs would be cost-appropriate for the crosswalk on Highway 95, near Andersen Elementary/City Hall. The price for the two solar-powered signs would be approximately \$7,500.00. He thanked councilmembers, staff, and residents for their assistance and input with the 2011 budget. Administrator Berg has been offered an adjunct teaching position next spring and

has requested 60 hours of unpaid time for this purpose. Seal coating of streets in the west central portion of town will be done on Thursday, August 5, 2010, weather permitting.

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to adjourn the meeting at 7:27 p.m. Motion carried.

City Administrator/Clerk