

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBER
NOVEMBER 2, 2009
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of November 2, 2009 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, Fire Chief Mike Bell, Police Chief Laura Eastman, Public Works Supervisor Mel Horak, Finance Officer Wanda Madsen, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, and Attorney Nick Vivian

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. Mayor Nowaczek welcomed Mitch Berg as the City of Bayport's new city administrator and administered the oath of office to the new administrator.
2. The October 2009 recycling award went to Bob Reier, Jr.
3. Mayor Nowaczek announced that the Truth in Taxation public hearing is scheduled for the Monday, December 7, 2009 City Council meeting, which begins at 6:00 p.m. at Bayport City Hall, 294 North 3rd Street, Bayport, Minnesota.
4. Police Chief Eastman thanked members and volunteers of the Police Department, Fire Department and community for their efforts in providing Bayport children with a fun and safe Halloween.
5. Police Chief Eastman, Police Officer Dave Wynia, and Andersen Corporation security department employee Anya Wolff presented certificates of appreciation to Andersen employees Nathan Belz, Dawn Holldorf, Teresa Olson and Jason Severson for their quick response during a fellow employee's medical situation. The person, who was in cardiac arrest, survived the incident, due in large part to the immediate medical treatment that was provided.

OPEN FORUM

1. Bob Johnson, 130 6th Street South, requested an amendment to the Hazelwood Cemetery ordinances to allow placement of a 67-inch monument on their family plot. Current city code allows a maximum height of 42 inches. Attorney Vivian stated the City Council could consider a text amendment to the ordinance changing the height restriction or allow the resident to pursue a variance to the ordinance. Cemetery superintendent Horak stated the 42-inch height was decided upon by a citizen cemetery advisory group to promote a uniform appearance in the cemetery. He expressed some concern with vandalism for taller monuments, and Attorney Vivian indicated staff had concerns with the stability of the proposed monument. Staff was directed to explore an ordinance text amendment to allow an increased maximum monument height, for discussion at the next meeting.
2. Fire Chief Bell stated members of the Fire Department were present to show support for a City of Bayport employee and fellow member of their department, related to a discussion item on the agenda.

CONSENT AGENDA

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

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 09-26

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING CONSENT AGENDA ITEMS 1-14 FROM THE NOVEMBER 2, 2009 CITY COUNCIL AGENDA

1. October 5, 2009 City Council regular meeting minutes
2. October payables and receipts
3. October building, plumbing and mechanical permits
4. Payment request for Barker's Alps Park improvements
5. Waiver of public hearing by property owner on 429 assessment process for Inspiration park and road improvements (Resolution 09-26A)
6. Library Board vacancy and Planning Commission reappointments
7. Payment request for Barker's Alps Park playground equipment
8. Acceptance of a grant to the Fire Department from the Department of Natural Resources
9. Payment request for MSCWMO Perro Creek Outlet Project
10. Annual step increase for the Finance Officer
11. Snow removal agreement with Mn/DOT for trunk highways within Bayport
12. Central St. Croix Valley Joint Cable Commission and Valley Access Channels budget for 2010
13. Administrative policy regarding the recording of closed meetings of the City Council to discuss pending litigation
14. Authorization to proceed with the fence replacement at Hazelwood Cemetery

Councilmember Kraftson reminded staff to make sure the assessment for item #5 be certified, by the required Washington County deadline.

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

PUBLIC HEARINGS – None

COUNCIL LIAISON REPORTS

Councilmember Seeberger reported the October Planning Commission meeting was cancelled due to lack of business.

Councilmember Kraftson reviewed the October 8, 2009 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO), stating there were no major issues related to Bayport. The next meeting is scheduled for Thursday, November 12, 2009, at 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported on the October 22, 2009 meeting of the Library Board. Beth Hogberg was recognized for serving on the board for the maximum three terms, and residents interested in filling the open position were encouraged to contact Library Director Kathy MacDonald or visit the city's website. A fundraiser, Girls Night Out, was held on November 1, 2009. The Fred C. and Katherine B. Andersen Foundation was thanked for its \$65,000.00 donation for general operations support. The

library will be closed on Thanksgiving Day, as well as December 24 and 31, 2009. The next meeting is scheduled for Thursday, November 19, 2009, 6:00 p.m., at the library, and the public is invited to attend.

Councilmember Johnson reported on the Central St. Croix Valley Joint Cable Communications Commission's meeting of October 21, 2009. The 2010 budgets were approved and will be posted on the Valley Access Channels (VAC). Production grants are available for people interested in producing community videos for VAC. The annual holiday party with Santa Claus is scheduled for December 12, 2009, 9:00 a.m. - 12 noon, at the Valley Ridge Mall. The next meeting is scheduled for Wednesday, December 16, 2009, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Carlson had no report on the Lower St. Croix Partnership.

UNFINISHED BUSINESS

Consider donation requests: Administrator Berg stated there is \$2,700.00 in the budget for donations. He suggested the City Council consider using charitable gaming funds as a revenue stream for future donation requests, as the League of Minnesota Cities regards this as an accepted practice. The city's charitable gaming fund #204 currently has a balance of approximately \$4,000.00, with the funds earmarked for playground equipment. The City Council considered the following requests:

1. Belwin Athletics donation request for athletic fields (\$2,400): Colleen Danford, Director of the Lucy Winton Bell Athletic Fields, reviewed the season's accomplishments and requested continued capital funding support of \$2,400.96, based on 312 children residing in the City of Bayport.
2. Andersen Elementary donation request for playground equipment (\$1,000): Principal Mark Drommerhausen requested financial support to replace an existing slide at the school, at a cost of \$5,000.00. The school is requesting equal financial support from the school's parent group, as well as the four communities whose children attend Andersen Elementary.
3. Community Thread donation request for services/programming (\$1,500): Valerie Jones, Executive Director, requested programming support, specifically for the Bayport Senior Center. She stated the annual operating cost for the center is approximately \$120,000.00.
4. Youth Service Bureau (YSB) donation request for services/programming (\$1,350): Paul Weiler, Executive Director, reviewed YSB's programs aimed at keeping at-risk youth out of the court system. He noted the city has financially supported YSB throughout its 30-year history, and that 35 Bayport youth were served by YSB programs last year.

Discussion followed on the merits of each donation request. Councilmembers generally were in favor of the requests, except for Belwin Athletics because the sports complex is privately owned and doesn't provide any programs within city limits. Mayor Nowaczek stated he was reluctant to fund any requests at this time with the city cutting back on its services and staffing.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to approve a donation of \$1,000.00 to Andersen Elementary for replacement and upgrading of a playground slide, to be paid out of the charitable gaming fund. It was moved and seconded to amend the motion to include authorizing transfer of \$1,000.00 from charitable gaming fund #204 to general fund #101 to fund the donation. Motion carried 4-1, with Mayor Nowaczek voting nay.

It was moved by Councilmember Carlson to approve a donation of \$1,500.00 to Community Thread. Motion failed for lack of a second. Discussion followed on funding the Community Thread donation through the city's general fund.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to approve a donation of \$1,500.00 to Community Thread and authorize the transfer of \$1,500.00 from charitable gaming fund #204 to general fund #101 to fund the donation. Motion carried 4-1, with Mayor Nowaczek voting nay.

It was moved by Councilmember Johnson to approve a donation of \$1,300.00 to the Youth Service Bureau for 2009 and authorize the transfer of \$1,300.00 from charitable gaming fund #204 to general fund #101 to fund the donation. Councilmember Johnson amended his motion to approve a donation of \$1,350.00 for 2010 and a like amount to be transferred to fund the donation. Councilmember Carlson seconded the motion. Motion failed 3-2, with Mayor Nowaczek and Councilmembers Kraftson and Seeberger voting nay. Administrator Berg explained that the city might want to leave some funds in the #204 account to pay for future park improvements and therefore pay for any further donation requests out of the #101 general fund.

It was moved by Councilmember Seeberger and seconded by Councilmember Kraftson to approve a donation of \$1,350.00 to the Youth Service Bureau, with funding from general fund #101. Motion carried 4-1, with Mayor Nowaczek voting nay.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to approve a donation of \$1,200.00 to Belwin Athletics for the Lucy Winton Bell Athletic Field for 2010, with funding from general fund #101. Motion failed 3-2, with Mayor Nowaczek and Councilmembers Johnson and Seeberger voting nay.

NEW BUSINESS

Consider a request for an Eagle Scout project at Lakeside Park: Jesse Dolney, a member of Bayport Scout Troop 113, reviewed his request to construct a new volleyball court at Lakeside Park as his Eagle Scout project. The new court would be placed at the current site of a rundown log cabin that would be removed, and the new court would be less prone to flooding than the current courts. He plans on constructing the court on November 14, 2009. He is requesting City Council approval of the project, to include funding of \$1,800.00 to cover materials and permission to demolish the building. Public Works Director Horak stated placement of a volleyball court in the proposed area is part of the Lakeside Park master plan, and the log cabin does not appear to be any significant historical relevance. He noted there are structural and safety concerns with the building. Demolition costs would be donated by River City Services. He further stated that two parking spaces in the nearby parking lot would be eliminated with the construction of the new court; however, the park long-term plan included elimination of this parking area. Discussion followed on the historical relevance of the log cabin and proposed change to the parking area. Assistant Administrator/Planner Taylor stated the city had previously contacted the Minnesota and Washington County Historical Societies regarding the log cabin, and they stated there was no written documentation or record that indicated the building was of any historical value. Mayor Nowaczek suggested that anyone with thoughts on removing the log cabin from the park should contact the city prior to the planned demolition date.

It was moved by Councilmember Kraftson and seconded by Councilmember Johnson to authorize the funds for the Eagle Scout project as presented by Jesse Dolney for a sand volleyball court at Lakeside Court with a not-to-exceed cost of \$1,800.00. Motion carried.

Consider creating a citizen input committee to develop a long range plan for city property along the river: Mayor Nowaczek reviewed his proposal and resolution to develop an advisory committee to consider the city's approach and strategy for Bayport's riverfront. As proposed, the Bayport Riverfront Advisory Commission would consist of a representative cross-section of Bayport residents and would make oral and written recommendations to the City Council by December 6, 2010. The commission

would be directed to specifically examine the feasibility of a municipal dock, marina, boat ramp, and fishing pier. Discussion followed on the process for appointing commission members, utilizing residents who live on the river, the use of a facilitator for the commission, and establishing a budget for the commission.

Mayor Nowaczek introduced the following resolution and moved its adoption:

Resolution 09-27

**A RESOLUTION ESTABLISHING THE BAYPORT RIVERFRONT
ADVISORY COMMISSION**

The motion for adopting the foregoing resolution was duly seconded by Councilmember Carlson. Discussion followed on the number of people on the commission, options for community input and city employees serving on the commission.

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 amending Chapter 58 – Utilities to adopt Chapter 4 of the Washington County Development Code related to Subsurface Sewage Treatment System Regulations: Administrator Berg reviewed a state-mandated change to the Individual Sewage Treatment System (ISTS) regulations, and a proposed ordinance that would adopt the updated Washington County regulations. He stated it affects only the small number of residents in the city who have individual septic systems. Councilmember Johnson suggested discussion on this topic be continued to the December meeting to allow councilmembers and residents sufficient time to review the proposed changes, which are available on the Washington County website.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to continue this matter to the December 2009 City Council meeting. Motion carried.

Consider authorization to review and update the city’s sewer ordinances: Engineer Peters reviewed the Metropolitan Council Environmental Services (MCES) surcharge program for excessive inflow and infiltration (I/I). He noted that 65% of the city’s sanitary sewer system is on private property. Staff is requesting that the city engineer and city attorney be authorized to review the existing sanitary sewer ordinances to ensure the city has the authority to require that private systems be inspected and property owners required to improve deficiencies and remove all I/I clean water sources. Staff anticipates the review to cost approximately \$1,000.00.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to authorize Short Elliott Hendrickson, Inc. and the city attorney to review the existing sanitary sewer ordinances and make recommendations for revisions that give the city the authority to inspect private properties and require property owners to improve deficiencies related to inflow and infiltration problems. Motion carried.

COUNCIL ITEMS AND ANNOUNCEMENTS – None

CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS

New City Administrator update: Administrator Berg thanked city and contracted staff for their assistance in bringing him up to speed on city issues.

Closed session to discuss pending litigation: Mayor Nowaczek stated the City Council would be moving to closed session to consider an employee performance and discipline matter, pursuant to Minnesota Statutes, section 13d.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn to closed session at 8:20 p.m. Motion carried.

Mayor Nowaczek resumed the regular meeting at 9:50 a.m. Jennifer Nodes, Eckberg, Lammers, Briggs, Wolff, and Vierling P.L.L.P., summarized the closed session and presented the city attorney's recommendations regarding employee Joshua Eisinger.

It was moved by Councilmember Seeberger and seconded by Councilmember Kraftson to adopt the recommendations of the city attorney to suspend (with pay) employee Joshua Eisinger for a period of nine days, effective Thursday, October 22, 2009, and extending to Tuesday, November 3, 2009. As such, the employee is expected to be fully reinstated and return to work Wednesday, November 4, 2009. The City Council has directed staff to set guidelines regarding expected behavior and set a further performance review in 90 days. Motion carried.

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn the meeting at 9:55 p.m. Motion carried.

City Administrator/Clerk