

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

**CALL TO ORDER**

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of February 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, and Torry Kraftson, and Judy Seeberger

Members Absent: None

Others Present: Administrator Mike McGuire, Public Works Supervisor Mel Horak, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, and Attorney Nick Vivian

**PROCLAMATIONS/COMMENDATIONS/PETITIONS**

1. The January 2009 recycling award went to Susan Neumann.

**OPEN FORUM**

1. Colleen Danford, Director of the Lucy Winton Bell Athletic Fields, presented a plaque to the City of Bayport in recognition of the city's monetary support. She reported construction on a new multipurpose building would begin in April.

**CONSENT AGENDA**

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

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 09-02**

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING  
CONSENT AGENDA ITEMS 1-5 FROM THE FEBRUARY 2, 2009 CITY COUNCIL AGENDA**

1. January 5, 2009 City Council regular meeting minutes
2. January payables and receipts
3. January building, plumbing and mechanical permits
4. Use agreement for the 800 MHz radio system
5. Special event application from BCAL for ice skating event at Perro Park

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

Judy Seeberger – aye

Connie Carlson – aye

Torry Kraftson – aye

**PUBLIC HEARINGS**

Public hearing to consider a request for a conditional use permit (CUP) to allow the existing garage on the property to be utilized as an elevation method other than fill, to construct a proposed second level addition to the garage, for the purpose of creating a single-family residential dwelling unit located at 9 Point Road: Mayor Nowaczek noted the public hearing was being held due to a lack of quorum at the

January Planning Commission meeting. Assistant Administrator/Planner Sara Taylor reviewed a request to modify an existing garage at 9 Point Road to provide a second story addition that would be used as a single family dwelling and/or a hobby-art studio for the owners who live at 10 Point Road. The property is in the flood plain, and the city's flood plain management ordinance requires that all dwelling structures must be elevated on fill to protect them from flooding. The property owner has requested using the garage as the foundation to elevate the proposed dwelling unit instead of fill, which requires a CUP. The proposed structure would comply with all impervious coverage, setback, and height requirements. In addition, staff discussed the project with the DNR, and no issues were identified.

No comments were heard at the public hearing. It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to close the public hearing. Motion carried.

Discussion followed on the property being an individual lot of record, which would allow the proposed dwelling unit to be sold separately in the future. The suggestion to require storage of chemicals and other potential pollutants above the flood level elevation was made by Mayor Nowaczek. Councilmember Johnson stated that this is already common practice for most properties subject to flooding. A representative for the contractor, Braden Construction, explained the use/intent of passive flood vents for the structure. It was noted that required septic testing has been coordinated with Washington County, and the applicant is aware the project would necessitate discussion with the Middle St. Croix Watershed Management Organization regarding stormwater treatment requirements.

Councilmember Johnson introduced the following resolution and moved its adoption.

**Resolution 09-03**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE EXISTING GARAGE ON THE PROPERTY TO BE UTILIZED AS AN ELEVATION METHOD OTHER THAN FILL, TO CONSTRUCT A PROPOSED SECOND LEVEL ADDITION TO THE GARAGE, FOR THE PURPOSE OF CREATING A SINGLE-FAMILY RESIDENTIAL DWELLING UNIT LOCATED AT 9 POINT ROAD, LEGALLY DESCRIBED AS LOT 9, POINT ADDITION TO BAYPORT, WASHINGTON COUNTY, MINNESOTA**

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

**COUNCIL LIAISON REPORTS**

Councilmember Seeberger had no report, as the Planning Commission meeting was cancelled, due to a lack of quorum.

Councilmember Kraftson reported on the January 8, 2009 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). A motion to revise the slopes rule was approved, which would require projects disturbing slopes greater than 24% outside of the Riverway District to require a variance, with a 12% slope variance requirement within the Riverway District. However, approval from the Minnesota Board of Water and Soil Resources (BOWSR) is needed to make this rules change. The next meeting is scheduled for Thursday, February 12, 2009, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported on the January 22, 2008 meeting of the Library Board. Circulation is up substantially (20%). The next meeting is scheduled for Thursday, February 26, 2009, 6:00 p.m., at the library.

Councilmember Johnson reported the Cable Commission did not meet in January, and the next meeting is scheduled for Wednesday, February 18, 2009, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Carlson reviewed the minutes of the January 21, 2009 Lower St. Croix Partnership meeting. Annual officer elections were held, and DNR representative Molly Shodeen reviewed upcoming workshops. The second in a series of workshops is set for March 31, 2009 at the Stillwater Library that will focus on linking land use with water quality, legal issues and tools for local land use decision makers. A third workshop on June 17, 2009 will provide a view from the river via a boat trip and will provide a field view of the river's resources and the challenges communities face. The next Lower St. Croix Partnership meeting is scheduled for Wednesday, March 18, 2009, 7:00 p.m., at the Hudson Government Center.

### **UNFINISHED BUSINESS**

Update on Barker's Alps Phase I improvements: Landscape architect Larry Wacker reported that PEER Engineering was expected to complete the Phase II report on the rubble area in the next couple of weeks, at which point the Minnesota Pollution Control Agency (MPCA) would make remedial recommendations. Concrete, brick rubble and metal were found in the area, along with some traces of petroleum byproducts, but no concentrated contaminants. PEER Engineering anticipates the MPCA will require removal of the concrete, brick and metal debris, as well as a minimal amount of soil, due to the trace petrochemical content, and ongoing monitoring of the excavation by an environmental engineer.

The scope of improvements for Phase I were reviewed in detail, including the parking lot, renovation of the south playfield, play area and court games at the top of the slope at the south end of the park, landscaping, and path connections. The proposed 10-foot wide path toward the Inspiration development has a maximum slope of 8.2% and would have a 2 ½-foot high retaining wall along the south side of the path (approximately 900 feet). Staff suggested installing an 8-foot wide path, which would allow the retaining wall to be lowered approximately 6 inches, and Mr. Wacker requested councilmember input on the width of the path. Engineer Peters noted that some type of access road must be maintained to service the booster station and ground reservoir in the area of the trail connection, and councilmembers liked the idea of a shared purpose for the trail/road. Councilmembers were in favor of an 8-foot path up the slope, with a wider connection at the top to accommodate the heavy-duty service vehicles. There was discussion on maintaining the existing snowmobile trails. Mr. Wacker indicated he would provide an update at the March meeting.

Review and discuss employee health insurance policy: Administrator McGuire noted the city has negotiated a 15.5% rate increase with its current provider, Medica, for 2009. Staff has explored options for reducing insurance costs further, but feels it would be difficult to negotiate a change at this time, due to contracts with the police and public works departments. An employee health insurance committee will be formed to review options for next year. Staff recommended continuing health insurance coverage with Medica for 2009, at a rate increase of 15.5%.

It was moved by Councilmember Kraftson and seconded by Councilmember Seeberger to continue health insurance coverage with Medica for 2009, at a rate increase of 15.5%. Motion carried.

Consider a resolution authorizing the city to enter into a grant agreement for the Bayport Storm Sewer Project: MSCWMO Chairman Dave Beudet explained that the proposed resolution is required as part of the grant agreement for the project. It is basically a boilerplate resolution indicating support of the project and intent to follow state laws.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 09-04**

**RESOLUTION AUTHORIZING THE CITY OF BAYPORT TO SUBMIT INFORMATION TO THE MINNESOTA PUBLIC FACILITIES AUTHORITY AND TO ENTER INTO A GRANT AGREEMENT FOR THE BAYPORT STORM SEWER PROJECT**

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

Attorney Vivian provided an update on discussions regarding the easement with Andersen Corporation required for the project. Andersen Corporation continues to request that the city waive the liability caps as part of the agreement, and staff believes it is in the best interest of the city not to waive the caps and continue to adhere to this policy. Councilmembers voiced support of staff's direction with the liability caps issue. Mr. Beaudet stated the project bids are due February 12, 2009.

**NEW BUSINESS**

Consider an appointment to the Planning Commission: Administrator McGuire indicated the city received two letters of interest from residents interested in filling the Planning Commission vacancy, due to Judy Seeberger's election to the City Council. This special one-year term would expire December 31, 2009. Staff met with Dan Goldston and John Nelson and is recommending Dan Goldston for the open seat. Dan Goldston introduced himself and thanked the City Council for the opportunity to serve the community.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to appoint Dan Goldston to the Planning Commission for a special term, to fill a vacancy, with a term expiration of December 31, 2009.

Review beach house operation and rental policy: Administrator McGuire reported that the policies for the beach house operation and rental had been reviewed after the first year of operation. He reviewed 2008 policies and staff recommendations for 2009. Councilmembers supported retaining attendant hours of 11 a.m.-7 p.m., except when an exclusive reservation for 5 p.m.-9 p.m. is scheduled. Suggestions for additional revenue items included T-shirts, rafts/floating devices, towels, and sunscreen, and staff will explore a minor investment for resale of these types of items. It was also suggested that canoe/kayak rentals be considered in the future.

Review general guidelines for the city's Municipal Buildings Maintenance Fund Committee: Administrator McGuire noted that the maintenance fund was established last year. He reviewed the guidelines for the maintenance fund and committee functions, noting that all affected department heads would have input on the committee.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to adopt the Municipal Buildings Maintenance Fund Committee guidelines as presented. Motion carried.

**COUNCIL ITEMS AND ANNOUNCEMENTS**

1. The City Council reminded residents to join the free skating party at the Perro Park ice rinks on Friday, February 13, 2009, 5:30 p.m. – 9:00 p.m. The event is sponsored by the Bayport Community Action League.

## **CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS**

1. Schedule a workshop to discuss potential 2009 budget revenue loss: Administrator McGuire indicated the Governor's preliminary information indicates Bayport would see a reduction of \$75,000.00 in local government aid (LGA) in 2009 (4% of budget), and a \$156,000.00 in 2010 (8% of budget). Each department is working on budget reduction proposals, and major expenditures have been put on hold until official notification is received from the state regarding the city's LGA.
2. Closed session to discuss pending litigation: It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn to closed session at 7:50 p.m. to discuss pending litigation. Motion carried.

Mayor Nowaczek resumed the regular meeting at 8:10 p.m.

## **ADJOURNMENT**

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to adjourn the meeting at 8:11 p.m. Motion carried.