

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
SEPTEMBER 7, 2010  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of September 7, 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, Torry Kraftson and Judy Seeberger

Members Absent: None

Others Present: Administrator Mitch Berg, Fire Chief Mike Bell, Police Chief Laura Eastman, Finance Officer Wanda Madsen, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, and Attorney Nick Vivian

**APPROVAL OF AGENDA**

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to approve the September 7, 2010 agenda. Motion carried.

**PROCLAMATIONS/COMMENDATIONS/PETITIONS**

1. The August recycling award was given to Rebecca Langan.
2. Mayor Nowaczek reminded residents that the annual Derby Days event, sponsored by the Bayport Community Action League (BCAL), will be held on Saturday, September 18<sup>th</sup>, and encouraged everyone to attend the scheduled events throughout the day.

**OPEN FORUM**

1. Scott Gallatin, 467 9<sup>th</sup> Street North, expressed concern about issues surrounding installation of a driveway apron at his home. He requested reimbursement from the city for the portion of the work that staff had originally indicated would be covered by the city (\$787.50). Mayor Nowaczek indicated that staff has researched Mr. Gallatin's situation and determined the city does not currently have a specific policy to address this type of reimbursement. Staff was directed to develop a policy to address driveway aprons and to make a recommendation regarding reimbursement for Mr. Gallatin at a future meeting.
2. Jim Martin, a candidate for the Minnesota Legislature in District 56A, introduced himself and thanked the public for nominating him as an independent candidate.
3. Police Chief Laura Eastman stated the guest speaker for the September 28, 2010 community watch program would be James Arlt, an investigator with the Minnesota Department of Public Safety Anti-Fraud Division. Residents were encouraged to attend this 6:00 p.m. program at Croixdale.
4. Police Chief Eastman thanked residents for participating in Night to Unite on August 3<sup>rd</sup> and recognized Mayor Nowaczek's continued assistance at this annual event.

## **CONSENT AGENDA**

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

1. August 2, 2010 Special City Council Budget Workshop meeting minutes
2. August 2, 2010 City Council regular meeting minutes
3. August payables and receipts
4. August building, plumbing and mechanical permits report
5. Accept park donation from Mary Jo Weller, on behalf of the Parent Family
6. Special event application for Bikery's Cyclocross Race at Barker's Alps Park on September 12, 2010
7. Special event application addendum from BCAL for Derby Days on September 18, 2010
8. Transfer of two gravesites in Hazelwood Cemetery to Gordon E. Johnson, P.O.D.  
Gordon E. Johnson Trust
9. Special event application from Shawn and Angela Binkley for Tunnel of Terror at Perro Park from October 1, 2010 to November 2, 2010
10. Acknowledge donations for Night to Unite and Youth Safety Camp
11. Acknowledge donations to the Fire Department for a controlled burn for training purposes
12. Request to purchase a used Fire Department command vehicle from the Oakdale Fire Department
13. Final invoice for street seal coating
14. Request to purchase a new replacement squad vehicle for the Police Department

Mayor Nowaczek recognized recent donations made on behalf of the Bayport Fire and Police Departments.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 10-20**

### **A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-14 FROM THE SEPTEMBER 7, 2010 CITY COUNCIL AGENDA**

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	

## **RIVERFRONT ADVISORY COMMISSION REPORT**

Mark Nagel, facilitator for the commission, presented the work accomplished to date by the group, including a draft vision statement, goals and objectives and requested input from the City Council and residents as the commission prioritizes the goals and objectives. It was recommended that an open house be scheduled in the near future to receive public comment on the proposed goals and objectives. The next meeting is scheduled for Tuesday, September 14, 2010, 6:00 p.m., at Bayport City Hall, and the public is encouraged to attend.

## **COUNCIL LIAISON REPORTS**

Councilmember Seeberger reported that the Andersen Community Advisory Committee (CAC), part of Project XL, would be meeting on Wednesday, September 15, 2010, 7:00 p.m. at Andersen Corporation.

Councilmember Kraftson reported on the August 16, 2010 Planning Commission meeting. He recognized the efforts of the Planning Commission in coming to their recommendations for the proposed use of the property located at 204 2<sup>nd</sup> Avenue South. The next meeting is scheduled for Monday, September 20, 2010, 6:00 p.m., at City Hall.

Councilmember Kraftson reviewed the August 12, 2010 meeting of the Middle St. Croix Watershed Organization (MSCWMO). He noted that the Washington Conservation District is gathering information on how cities deal with issues relating to the Minnesota Wetland Conservation Act. The MSCWMO will not be meeting in September; the next meeting is scheduled for Thursday, October 14, 2010, 7:00 p.m. at the Valley Ridge Mall.

Councilmember Johnson indicated the next meeting of the Bayport Library Board is scheduled for Thursday, September 23, 2010, 6:00 p.m. at the library and the public is invited to attend.

Councilmember Carlson reviewed the August 18, 2010 meeting of the Cable Commission, noting the majority of the meeting focused on the 2011 budget. The next meeting is scheduled for Wednesday, October 20, 2010, 7:00 p.m. at the Valley Ridge Mall.

### **PUBLIC HEARING**

St. Michael's Cemetery vacation of public rights-of way: Engineer Peters reviewed a request submitted by St. Charles Catholic Church to vacate multiple platted streets within St. Michael's Cemetery. He noted that many of the streets contain existing graves, and there are no city utilities or city owned/maintained streets within any of the rights-of-way under consideration. He stated the requested vacations would not impact the city and its maintenance needs and recommended approval of the request. He noted all requested street vacations are located within the cemetery's property. Councilmember Kraftson questioned whether there needs to be some public benefit identified prior to the City Council considering a vacation request. Attorney Vivian stated this action benefits the city by accurately defining property boundaries within the city and vacating public rights-of-way that contain gravesites.

Mayor Nowaczek opened the public hearing and no public comment was heard.

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

Councilmember Johnson introduced the following resolution and moved its adoption:

#### **Resolution 10-21**

#### **RESOLUTION AUTHORIZING THE VACATION OF THOSE PORTIONS OF PLUMB STREET, FIFTH STREET, FOURTH STREET, AND OAK STREET (NOW KNOWN AS 6<sup>TH</sup> AVENUE NORTH) ON THE PLAT OF SECREST AND PERRA'S ADDITON TO BAYTOWN IN 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:

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

**UNFINISHED BUSINESS** – None

## **NEW BUSINESS**

Consider an ordinance amendment to Appendix B – Zoning, Section 3 – Definitions, and an ordinance amendment to Section 6 – B-1 Limited Business of the Bayport City Code, to allow a limited transit vehicle storage facility and a heavy commercial vehicle repair and maintenance business with a conditional use permit (CUP) at 204 2<sup>nd</sup> Avenue South: Assistant Administrator/Planner Taylor reviewed the history of the proposed application and related ordinance amendments, noting that a new application was received in July 2010, requesting use of the property as both a limited transit vehicle storage facility and a heavy commercial vehicle repair and maintenance business. She noted that none of the site improvements recommended by staff in May 2010 have been implemented, and staff is recommending that the improvements related to normal property maintenance be required by the property owner regardless of whether a conditional use permit is issued for the property. The recommendations of the Planning Commission at the August 16, 2010 meeting were reviewed. Staff concurs with the Planning Commission’s recommendation to allow a limited transit vehicle storage facility as a conditional use at 204 2<sup>nd</sup> Avenue South and to deny use of the property as a heavy commercial vehicle repair and maintenance because of previous land use concerns at the property and the proposed use does not fit within the scope of the B-1 zoning district or the city’s comprehensive plan. Councilmember Kraftson clarified that the property is currently being used as a limited transit vehicle storage facility, and the applicant is seeking approval to perform heavier commercial vehicle repair and maintenance in order to move forward with his plans to purchase the property. Planner Taylor noted the applicant, Matt Liveringhouse, was not present at the meeting; however the property owner and applicant’s representative were available to answer questions. Discussion followed on the required site improvements, including the need to bring the property into compliance with city code. Councilmembers noted the differences between the applicant’s initial application in May and the one currently being considered. The City Council expressed concern with allowing a heavier use, since conditional use permits run with the property.

Councilmember Seeberger introduced the following ordinance and moved its adoption:

### **Ordinance #819**

#### **AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, AMENDING APPENDIX B – ZONING, SECTION 3 – DEFINITIONS OF THE BAYPORT CITY CODE**

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	

Councilmember Seeberger introduced the following ordinance and moved its adoption:

### **Ordinance #820**

#### **AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, AMENDING APPENDIX B – ZONING, SECTION 6 – ZONING DISTRICTS, PERMITTED USES, AND DIMENSIONAL STANDARDS OF THE BAYPORT CITY CODE**

The motion for adopting the foregoing ordinance was duly seconded by Councilmember Kraftson 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	

Councilmember Seeberger introduced the following resolution and moved its adoption, subject to the findings of fact as presented and the site improvements as listed on attachment #1:

**Resolution 10-22**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP) TO ALLOW A LIMITED TRANSIT VEHICLE STORAGE FACILITY AT 204 2<sup>ND</sup> AVENUE SOUTH, LEGALLY DESCRIBED AS LOTS 9-10, BLOCK 75, 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:

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

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to deny an ordinance amendment to Section 6 – B-1 Limited Business, to allow heavy commercial vehicle repair and maintenance as a conditional use in this zoning district, and a conditional use permit to allow heavy commercial vehicle repair and maintenance at 204 2<sup>nd</sup> Avenue South, subject to the findings of the Planning Commission and staff as discussed at the Planning Commission meetings, Public Hearing and City Council meetings. Motion carried.

Consider an ordinance amendment to Appendix B – Zoning of the Bayport City Code related to rezoning of land parcels: Assistant Administrator/Planner Taylor stated the proposed ordinance amendment is primarily a housekeeping item that will simplify Section 10 that provides a listing of land parcels that are rezoned within the city. In the past, a complete legal description of the parcels being rezoned had been included within the text of the ordinance. To simplify the text of the ordinance and save on printing costs, staff is proposing to create an index that would reference the rezoning of the land parcels and the date of adoption. The index would then correspond with amendments to the zoning map. A full copy of the resolution or ordinance adopting the rezoning, including the legal descriptions, would be kept permanently on file with city. However, it would not be included within the text of the ordinance. Notice of the Planning Commission’s public hearing was duly published in the Stillwater Gazette, and the Planning Commission voted to recommend approval of the ordinance amendment at its August 16, 2010 meeting.

Councilmember Kraftson introduced the following ordinance and moved its adoption:

**Ordinance #821**

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, AMENDING APPENDIX B – ZONING, SECTION 10 – REZONING ORDINANCES OF THE BAYPORT CITY CODE**

The motion for adopting the foregoing ordinance was duly seconded by Councilmember Seeberger 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 a one year contract extension with the Eckberg Law Firm to provide city legal services: Administrator Berg recommended the city’s contract for legal services with Eckberg, Lammers, Briggs, Wolff & Vierling, PLLP, be extended until December 31, 2011, to assist with the transition of new councilmembers in 2011 and re-establish a rotation schedule for the city’s contracted services. As part

of the contract extension, the law firm has agreed to freeze their 2010 rates into 2011. Additionally, they have offered to freeze their rates through 2012, if the city were interested in a multiyear contract. Councilmembers voiced their support for periodic reviews of all contracted services and noted their approval of the services provided by the Eckberg law firm.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to approve a one year contract extension with Eckberg, Lammers, Briggs, Wolff & Vierling, PLLP, from January 1, 2011 to December 31, 2011, provided they freeze both their general civil legal services and prosecution/public safety legal services at the 2010 rates for 2011.

Consider quotes for a new heating and air conditioning rooftop unit for City Hall: Administrator Berg reviewed the history of maintenance problems with the three rooftop air handling units (AHUs) at City Hall, specifically the one servicing the Police Department that has been out of service for several weeks. Quotes were solicited to either repair or replace the Police Department AHU, and it was determined that the cost of repair was nearly as much as the cost of a new AHU. Therefore, staff is recommending the purchase of a new AHU from Anderson Heating, Inc., for \$5,153.00, with funding from the Municipal Buildings Maintenance Fund.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to authorize the purchase of a new rooftop heating and air conditioning unit for City Hall, as quoted by Anderson Heating, Inc., at a cost of \$5,153.00. Motion carried.

Consider authorization to request proposals for auditing services for fiscal years 2011, 2012, and 2013: Administrator Berg noted the contract with Abdo, Eick & Meyers, LLP, our current auditors, ends December 31, 2010. He recommended the city solicit quotes for future auditing services for the fiscal years ending December 31, 2011, 2012 and 2013.

It was moved by Councilmember Seeberger and seconded by Councilmember Carlson to authorize staff to prepare and solicit quotes for auditing services for the fiscal years ending December 31, 2011, 2012 and 2013. Motion carried.

Consider an I/I Capital Improvement Project: Engineer Peters reviewed the city's actions to date to address the Metropolitan Council Environmental Services (MCES) inflow/infiltration (I/I) surcharge that was assessed due to excessive I/I into their treatment system. Bayport's remaining I/I surcharge for 2010 and 2011 is \$77,616.00. Bayport has received a surcharge credit from the MCES in the past for study work done; however, the MCES may discontinue crediting cities if corrective work is not undertaken. In 2010, the eastern half and two smaller areas of the city's sanitary sewer were televised and manholes inspected. The results of the inspection work were reviewed. The city budgeted \$100,000.00 in 2010 for sanitary sewer improvements. Project costs to complete all repairs identified in the easterly half of the city are estimated at \$625,365.00. The investigation area was broken down into four smaller areas, and Engineer Peters recommended an I/I improvement project for two priority areas, lining the sanitary sewers on 5<sup>th</sup> Street North between 3<sup>rd</sup> Avenue North and 5<sup>th</sup> Avenue North and repairing the existing manholes in the area. The work would also include installation of a six inch drain pipe to collect existing and future sump pump discharges from private services. The estimated project cost is \$109,140.00. The estimated construction cost is \$87,312.00, which would allow the city to follow the 10-day bidding process. Administrator Berg noted the MCES may have grant funds available to offset the improvement costs, and the city will pursue the grant opportunity, if applicable.

Discussion followed on broadening the scope of the project because of the age of the water and sewer system and past and present root infiltration issues. Mayor Nowaczek recommended proceeding with a pipe lining program for all areas identified in the staff report, with an estimated cost of \$287,402.00, and deferring the manhole repairs at this time. Also, if grant funds become available as mentioned, this improvement would provide a great value and service to rate users. The western half of the city's sewer system is scheduled to be televised in 2011, and Engineer Peters does not believe the inspection will reveal as many issues as in the eastern half.

It was moved by Councilmember Kraftson and seconded by Councilmember Seeberger to authorize staff to prepare plans and specifications for the sewer linings identified in the August 30, 2010 SEH staff report in Areas 1-3, and the identified work along 5<sup>th</sup> Street North (directional bore and stubs for storm sewer connections). Motion carried.

The plans and specifications will be presented at the October 2010 City Council meeting.

Consider crosswalk signage at the intersection of 3<sup>rd</sup> Street and 2<sup>nd</sup> Avenue: Administrator Berg reviewed quotes from vendors for the purchase of a solar-powered, pedestrian-activated blinker sign system to replace the current school crossing signs at the corner of 3<sup>rd</sup> Street North and 2<sup>nd</sup> Avenue North. The Stillwater Area School District has indicated they would donate toward the project, specifically the purchase and installation of the pole kits for the signs, estimated at \$1,440.00. Tapco revised their quote to match that of School Zone Safety Supply, and staff recommends purchase from Tapco because their system does not require installation of a concrete post. MnDOT has given preliminary approval for installation of the new signs.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to accept the donation from the Stillwater Area School District to purchase the pole kit for two new blinker signs and to accept the quote from Tapco for the two new blinker signs and poles for a purchase price of \$6,595.00, excluding sales tax and shipping. Motion carried.

Consider a petition for curb, gutter, and stormwater improvement project on Second Avenue North (adjacent to People's Congregational Church): Administrator Berg reported he received a last minute request from People's Congregational Church to defer the improvement project request until next spring. City staff is working with the church to answer additional questions prior to submission of a formal petition and has also applied for a grant from the Middle St. Croix Watershed Management Organization for the installation of rain gardens in the area. Staff noted this item will be tabled until a petition is received for the improvement project.

2011 Budget Presentation: Administrator Berg presented the 2011 budget, including the goals, process, and conditions influencing the budget numbers, including cuts in state aid. He also noted the City Council may want to consider allocating additional funding for infrastructure improvements, particularly since the City Council authorized the expansion of the Inflow and Infiltration CIP. The budget was cut 9% in 2010, and another 1% cut is proposed in 2011, while maintaining essential services. A 6.89% tax levy increase is proposed, with the proposed levy at \$1,113,798.00. The process of implementing franchise fees was reviewed, with revenue from the fees accounting for the last two quarters in 2011. Debt service, bond balances, proposed 2011-2015 capital improvement projects and major fund balances were reviewed. Administrator Berg suggested the City Council may want to consider adding a stormwater fee to help pay for infrastructure costs. He noted that the demand for water and sewer services decreased substantially after the new rates were implemented, and the enterprise funds are projected to realize another loss in 2011. In summary, he noted that based on preliminary estimates, the

average home in Bayport would see an annual increase of approximately \$75.00 due to the levy increase, and an estimated \$30.00 in franchise fees. Administrator Berg recognized the assistance of staff in preparing the budget. Discussion followed on the impact that falling home values may have on taxes and the pros and cons of implementing franchise fees. Staff will prepare a draft franchise fee ordinance for discussion at the next meeting. If the franchise fees are implemented earlier than projected, the final budget proposal in December would reflect a decrease in the tax levy.

Councilmember Seeberger introduced the following resolution and moved its adoption:

**Resolution 10-23**

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
ADOPTING THE PRELIMINARY CITY BUDGET FOR 2011**

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

Councilmember Seeberger introduced the following resolution, removing the debt service fund levy, and moved its adoption:

**Resolution 10-24**

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
ESTABLISHING THE PRELIMINARY LEVY CERTIFICATION FOR THE CITY'S  
GENERAL FUND AND LIBRARY FUND AT \$1,113,798.00**

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

Councilmember Seeberger introduced the following resolution and moved its adoption:

**Resolution 10-25**

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
ADOPTING THE PRELIMINARY CAPITAL IMPROVEMENT PLAN FOR  
2011 THROUGH 2015**

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

Administrator Berg noted that public input on the 2011 budget and levy would be heard at the December 6, 2010 City Council meeting at 6:00 p.m.

**COUNCIL ITEMS AND ANNOUNCEMENTS**

1. Councilmember Seeberger announced that Bayport has been approved as a Yellow Ribbon community, and a recognition proclamation will be announced on September 22<sup>nd</sup> in Farmington, Minnesota. Councilmember Seeberger and Police Chief Eastman will represent Bayport at the proclamation ceremony.

2. Councilmember Carlson mentioned a recent article in the Pioneer Press about the person who purchased the Lakeside Park log cabin from the city and rebuilt it in another location.

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

City Administrator update: Administrator Berg reviewed his August 30, 2010 administrator's report. In response to people receiving mixed messages from city staff, he reported that staff will be providing a checklist and more detailed information for people applying for building permits, as well as developing a policy addressing reimbursement for replacement of driveway aprons and curbs. Property issues on 5<sup>th</sup> Street South and 9<sup>th</sup> Street North were discussed. Councilmembers encouraged staff to work with residents who received a commitment from the city and to clarify each party's position on the respective issues.

### **ADJOURNMENT**

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn the meeting at 9:10 p.m. Motion carried.

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City Administrator/Clerk