

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
OCTOBER 4, 2010
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of October 4, 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, 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 October 4, 2010 agenda. Motion carried.

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. The September recycling award was given to Arnold Rondeau.
2. Public Works Supervisor Horak presented a plaque to Vern Thompson recognizing his retirement from the Public Works Department and thanked him for his 33 plus years of dedicated service.
3. Police Chief Eastman presented Officer Zach Lund with a Letter of Commendation for his actions on September 17, 2010, that led to the successful arrest of suspects involved in a gun-pointing incident in a neighboring city.
4. Councilmember Seeberger reported that the City of Bayport was proclaimed a Yellow Ribbon City by Governor Pawlenty at a ceremony on September 22, 2010. Everyone involved in the effort was thanked for their time and community spirit in achieving this recognition.

OPEN FORUM – None

CONSENT AGENDA

Mayor Nowaczek read items 1-6 on the consent agenda.

1. September 7, 2010 City Council regular meeting minutes
2. September payables and receipts
3. September building, plumbing and mechanical permits report
4. Agreement with Washington County to provide assessing services for the city
5. Authorization for sale of Fire Department's 1990 Chevrolet pick-up truck
6. Special event application from Boy Scouts for pumpkin sale at Village Green park on October 16-17, 2010

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

Resolution 10-26

**A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-6 FROM THE
OCTOBER 4, 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

Administrator Berg reviewed the September 14, 2010 meeting minutes, noting that the commission continues its work to prioritize its goals and objectives. A public open house is planned for the near future to review the commission's recommendations.

COUNCIL LIAISON REPORTS

Councilmember Seeberger reported on the September 20, 2010 Planning Commission meeting, noting the Planning Commission recommended approval of an amendment to the Lower St. Croix Bluffland and Shoreland ordinance. The October meeting has been cancelled, due to lack of business.

Councilmember Seeberger reviewed Andersen Corporation's Community Advisory Committee (CAC) meeting of September 15, 2010.

Councilmember Kraftson noted the Middle St. Croix Watershed Management Organization did not meet in September. The next meeting is scheduled for Thursday, October 14, 2010, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported the Library Foundation is hosting a Girl's Night Out fundraiser on Sunday, November 7, 2010, 6:30-9:00 p.m. at the library. The next meeting is scheduled for Thursday, October 28, 2010, 6:00 p.m., at the library and the public is invited to attend.

Councilmember Carlson reported the Cable Commission did not meet in September. A budget planning meeting is scheduled for October 6, 2010 at 5:00 p.m., and the regularly scheduled meeting will be held October 20, 2010 at 7:00 p.m. Both meetings will be held at the Valley Ridge Mall.

PUBLIC HEARING - None

UNFINISHED BUSINESS

Consider adopting a city curb, gutter, sidewalk, and private driveway apron replacement policy:

Administrator Berg noted staff has prepared a draft policy to address future curb, gutter, sidewalk, and private driveway apron replacements in light of recent issues with property owners. He reviewed an issue with the property owners at 467 9th Street North, noting the owners are appealing the city's decision not to reimburse them for 50% of the replacement cost of their driveway apron (\$787.50). Scott Gallatin, 467 9th Street North, stated his new driveway apron has been installed and requested that the City Council approve 50% of the replacement cost, as originally promised in writing by city staff. Councilmembers discussed balancing the city's fiscal responsibilities and property owners' reliance on information provided by city staff and resultant harm to the property owner. Mayor Nowaczek believes the Gallatin's would have proceeded with the apron replacement, regardless of the city's involvement, and does not support reimbursement. Administrator Berg stated the city notified the Gallatin's of the

incorrect information supplied by city staff regarding reimbursement on the day after they signed an agreement for the work. Councilmember Johnson recommended that a reimbursement policy involving these types of private projects be completed in conjunction with a city improvement project, e.g., sidewalks, curb and gutter, to ensure the city controls funding for such projects. Discussion followed on precedence for reimbursement and the timing of the city's initial approval to the Gallatin's. The Councilmembers voiced their concern that the Gallatin's received incorrect information; however the majority of councilmembers were not in favor of reimbursement.

It was moved by Councilmember Johnson to approve payment of \$787.50 to Scott Gallatin upon proper receipt of work done for replacement of his driveway apron. Motion failed for lack of a second.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to deny payment of \$787.50 to Scott Gallatin, 467 9th Street North, Bayport, Minnesota. Motion carried 4-1, with Councilmember Johnson voting nay.

Discussion followed on the draft policy addressing cost sharing for city curb, gutter, sidewalk and private driveway apron projects. Administrator Berg noted the policy was drafted with input from the city's engineering firm that has a great deal of experience with these types of projects. Mayor Nowaczek suggested removing specific numerical reference to Minnesota state statutes, i.e., Chapter 429, and requested additional definition of the standards determining whether a project was reimbursable to a property owner and to what extent. Staff was directed to rework the draft policy and bring it back for approval at a future meeting.

Consider approval of plans and specifications for an inflow and infiltration (I & I) improvement project and authorization to advertise for bids: City Engineer Peters stated that plans and specifications for the 2010 I & I improvement project have been completed. The project would line the sanitary sewer pipe lines in the eastern portion of the city that were televised earlier this year, as well as provide for a short storm sewer improvement on 5th Street North. The engineer's estimated cost for the work is \$222,240.00, compared to \$241,000.00, as reported in the feasibility report last month. He noted the directional bore work on 5th Street North may need to be deferred until next spring, due to weather conditions; however the lining portion can proceed this year. If approved, he recommended a bid opening on October 28, 2010, with consideration of the bids at the November City Council meeting. The city has received notification from the Metropolitan Council Environmental Services (MCES) that the proposed work would satisfy the I & I credit requirements, and MCES would not be adding a surcharge for 2011 and into 2012. The city will be applying for a MCES grant for the project and anticipate a minimum grant of \$50,000.00 to offset the cost of the project.

It was moved by Councilmember Seeberger and seconded by Councilmember Kraftson to approve the plans and specifications for the 2010 inflow and infiltration project and authorize advertisement of bids. Motion carried.

Consider a petition for curb, gutter, and stormwater improvement project on Second Avenue North, adjacent to People's Congregational Church: Administrator Berg and Public Works Supervisor Horak reviewed a petition to initiate a 429 assessment project to remediate stormwater runoff on 2nd Avenue North, between Perro Creek and 3rd Street North. People's Congregational Church has also requested the addition of five striped parking spaces on the south side of 2nd Avenue North. The Middle St. Croix Watershed Management Organization would provide a \$1,000.00 grant for the installation of rain gardens for the stormwater project. The City of Bayport, People's Congregational Church and a private resident would be affected by the proposed work. The city received the proper petition request from the church; however the private property owner did not submit a completed request. Public Works Supervisor Horak indicated the city would like to add a short section of failing roadway on 1st Avenue

North to the project. Administrator Berg requested approval to authorize staff to sign the petition as the owner of Perro Park and to administratively collect the proper paperwork from the affected property owners. This would result in a 100% participation of the petition for local improvement per the Chapter 429 process, which would eliminate the need for one of the public hearings on the project. Mayor Nowaczek requested that the city's engineering firm, SEH, have an opportunity to provide a proposal for the project, in addition to the proposal from the City of Stillwater, since the work could not be completed until next spring. Councilmembers tabled further discussion to the November meeting.

NEW BUSINESS

Consider approval of liquor licenses for the establishment located at 328 5th Avenue North: Assistant Administrator/Planner Taylor reviewed the application for liquor licenses for a new restaurant, Bayport BBQ, as submitted by owner Chris Johnson. A background investigation has been completed on the applicant and city departments have reviewed and approved the application. Washington County will be completing a health, safety and welfare inspection of the premises. Based on satisfactory results of the department reviews and background investigation, staff is recommending approval of the application for on-sale liquor, on-sale Sunday liquor, and 2:00 a.m. closing licenses, subject to completion of any outstanding items that may be identified by Washington County. Applicant Chris Johnson answered questions regarding his work background and plans for the restaurant. Planner Taylor stated the applicant is aware of the property's conditional use permit for outdoor seating.

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to approve on-sale liquor, on-sale Sunday liquor, and 2:00 a.m. closing licenses for the Bayport BBQ, located at 328 5th Avenue North, Bayport, Minnesota. Motion carried.

Consider an ordinance amendment to Appendix C – Lower St. Croix Bluffland and Shoreland Management, Section 2 – Intent and Purpose of the Bayport City Code: Assistant Administrator/Planner Taylor reported that last year the city received notification from the DNR that the parcel at 836 Minnesota Street South was in violation of the Lower St. Croix River Act because it contained a commercial business in a designated rural district of the St. Croix River. Research of city records revealed that the parcel was once part of Baytown Township, which is considered a rural community; however, when the parcel was annexed into the City of Bayport in 1982, the city assumed the city's urban designation would then apply to the parcel and allow for commercial zoning use. The city was unaware that once a parcel is designated as rural or urban within the St. Croix Riverway, the designation cannot be changed, regardless of annexation. To correct this discrepancy, city staff worked with the property owner on legislation that would allow certain pre-existing land uses in rural districts to continue, due to unique circumstances. The legislation was approved earlier this year and an amendment to the city's Lower St. Croix Bluffland and Shoreland Management Ordinance is necessary to reflect the revised legislation. The city received favorable comments from the DNR and the St. Croix Scenic Coalition on the proposed ordinance amendment, and the Planning Commission recommended approval of the amendment. If approved, staff will work with the property owner to obtain a conditional use permit that would bring the property into compliance with the ordinance and reflect it as an urban parcel.

Councilmember Johnson introduced the following ordinance and moved its adoption:

Ordinance #822

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AMENDING APPENDIX C – LOWER ST. CROIX SHORELAND AND BLUFFLAND
MANAGEMENT, SECTION 2 – INTENT AND PURPOSE 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 adopting ordinances establishing gas franchise and electric franchise fees: Administrator Berg reviewed the history of implementing utility franchise fees and recommended changes in the draft ordinance language regarding users with multiple meters. He suggested putting 5% of the collected franchise fees into a separate fund that would be used to encourage property owners to become more energy efficient. Attorney Vivian clarified that staff is working with Xcel Energy to verify their approval of the proposed ordinance language, which incorporates changes recommended by the city attorney. Discussion followed on the timing of the official notification to Xcel Energy, adding a sunset clause to the agreement, and establishing a grant program to promote energy efficient programs. Attorney Vivian stated he would finalize the ordinance language with Xcel Energy, including the addition of the sunset clause, and pursue waiving the 60-day notification requirement. The final ordinance will be discussed for adoption at the November meeting.

Consider adopting a city fleet vehicle safety policy: Administrator Berg noted that department managers have provided input on the draft policy and staff recommended approval of the policy. Discussion followed on administration of the disciplinary action and potential challenges from the city's collective bargaining units. Councilmember Johnson requested input from the city's unions prior to adopting the policy, and Councilmember Kraftson requested clarification of consequences in the disciplinary action section.

It was moved by Councilmember Johnson and seconded by Councilmember Carlson to continue discussion on the city fleet vehicle safety policy until the November City Council meeting in order to provide an opportunity for the city's unions to provide feedback on the proposed policy. Motion carried.

COUNCIL ITEMS AND ANNOUNCEMENTS – None

CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS

City Administrator update:

1. The city received a thank you from the BCAL for its support of the recent Derby Days events.
2. Councilmembers were reminded to return their feedback on the administrator's job performance review to Assistant Administrator Taylor.
3. The Stillwater Gazette will be hosting a candidate forum on Tuesday, October 5, 2010, at 7:00 p.m. at City Hall. The forum will be broadcast on Channel 15.
4. After receiving additional information from Washington County on fiscal disparity and market value homestead credit reductions, the city has calculated that the proposed 2011 levy increase will result in an estimated \$10.00 annual tax increase for a \$250,000.00 residential property. If the franchise fees are implemented, the average annual residential fees would be \$33.00. Administrator Berg projected a total annual increase of between \$40.00 to \$80.00, for a \$250,000.00 residential property.

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn the meeting at 8:10 p.m. Motion carried.