

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

**CALL TO ORDER**

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of March 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. Police Chief Eastman recognized Officer Pat Logan for saving the life of a resident who was choking during an incident in January. She also noted that Officer Logan would be retiring from the Bayport Police Department at the end of March, after 29 years on the force.
2. Police Chief Eastman introduced Keylo, the Police Department's new K-9, and his handler, Officer Jay Jackson. Keylo will be used for narcotics detection, human scent tracking, and at community events, including National Night Out and Safety Camp. Funding for this new program was made possible through donations, and resident David Levy's sponsorship efforts were noted. Officer Jackson thanked the City Council for their support of the K-9 program and described the 13-month process in selecting and training the dog. Keylo has been certified through the United States Police Canine Association.
3. The February 2009 recycling award went to Alex Hove.

**OPEN FORUM**

1. Ralph Rothe, 191 3<sup>rd</sup> Street South, thanked Officer Pat Logan for his quick thinking in performing the Heimlich maneuver on him last month during a meal at the Bayport American Legion.
2. Clayton Eckles spoke on behalf of Mary-Claire Holst, 986 Inspiration Parkway, regarding a problem with water usage during the construction phase of her home and the subsequent charge to her utility account. Administrator McGuire reviewed the city's special assessment policy and stated the closing company did not provide a written request for a special assessment search, prior to Ms. Holst purchasing the home. Mayor Nowaczek recommended amending the agenda to continue this issue to the new business portion of the meeting.

**CONSENT AGENDA**

Mayor Nowaczek read items 1-9 on the consent agenda.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 09-05**

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING  
CONSENT AGENDA ITEMS 1-9 FROM THE MARCH 2, 2009 CITY COUNCIL AGENDA**

1. February 2, 2009 City Council regular meeting minutes
2. February payables and receipts
3. February building, plumbing and mechanical permits
4. Snowplowing contract with the State of Minnesota for Highway 95
5. Support of the 34<sup>th</sup> Red Bull Infantry Division's deployment to Iraq

6. Safety Camp registration fee
7. Separation agreement with Officer Patrick Logan
8. Replacement of Police Chief squad vehicle
9. Payment request to State of Minnesota to reimburse City of Bayport for MSCWMO Perro Creek Outlet Project costs to date

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  
Connie Carlson – aye

Dan Johnson – aye  
Torry Kraftson – aye

Judy Seeberger – aye

#### **PUBLIC HEARINGS – None**

#### **COUNCIL LIAISON REPORTS**

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

Councilmember Carlson (alternate liaison) reported on the February 12, 2009 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). The Minnesota Board of Water and Soil Resources (BOWSR) denied the MSCWMO's request to revise the slopes rule from 12% to 24% and will consider projects on slopes on an individual basis. Upcoming workshops include "Linking Land Use with Water Quality" on Tuesday, March 31, 2009, 6:00-9:00 p.m., at the Stillwater Public Library, and "A View from the River," on June 17, 2009, 5:30-9:00 p.m. The cost is \$10.00 for this boat trip excursion. The next MSCWMO meeting is scheduled for Thursday, March 12, 2009, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported on the February 26, 2009 meeting of the Library Board. A library patron thanked the library for the friendly service offered by the library staff. The board decided to meet the requested 5% reduction in the library's 2009 budget by reducing Wednesday hours to 4:00-8:00 p.m., effective immediately. The library received special recognition from the Library Journal as one of eight Minnesota public libraries recognized as an American Star Library. The next meeting is scheduled for Thursday, March 26, 2009, 6:00 p.m., at the library.

Councilmember Johnson reported on the Cable Commission meeting of Wednesday, February 18, 2009. Dan Erickson was elected as its chairperson for 2009, and authorization was given to purchase a van for staff members' use during photo shoots. Residents were encouraged to check out the commission's website, valleyaccesschannels.tv. The next meeting is scheduled for Wednesday, April 15, 2009, 7:00 p.m., at the cable studio located in the Valley Ridge Mall.

Councilmember Carlson reported 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: Administrator McGuire reviewed a proposal from Neighborhood Development Partners (NDP), the current Inspiration developer, that would expand the scope of the Phase I improvements. NDP is interested in financing their required park improvements and \$20,000.00 toward construction of a tot lot at the south end of the park through the Chapter 429 assessment process. The total estimated cost of \$280,000.00 would be assessed against the remaining 88 Inspiration lots, and the city would be reimbursed as the lots are sold. Administrator McGuire explained the Chapter 429 process and believes it would be a viable option. Discussion followed on the impact on park dedication fees, the timing required for the developer's improvements, the risk level to the city,

public input opportunity, the funding source, and whether the Chapter 429 process would slow down the park improvement project. Engineer Peters stated a feasibility study would be required as part of the Chapter 429 process.

It was moved by Councilmember Johnson and seconded by Councilmember Kraftson to support staff's efforts to pursue improvements to satisfy conditions in the Inspiration development's final plat and financed through the Chapter 429 process and to prepare the necessary paperwork, including a feasibility report, for City Council approval at a future meeting. Motion carried.

Consider approval of the storm sewer easement and agreement: Attorney Vivian reviewed a handout of the final draft of the storm sewer easement and agreement between Andersen Corporation and the City of Bayport for the Perro Creek Outlet Project. He explained that Andersen Corporation had asked for a waiver of the liability caps as provided by state law and a five million dollar indemnification for any injury that would occur in the easement area. The city and MSCWMO staff agreed to a liability cap up to the city's current insurance coverage, and recommended approval of the agreement.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to approve the storm sewer easement and agreement and authorize execution. Motion carried.

Consider award of the MSCWMO Perro Creek Outlet Project: Engineer Peters reviewed the bids, including Alternate A, noting that the 17 bids ranged from a high of \$1,371,372.11 to a low of \$850,582.49, submitted by Geislinger and Sons, Inc., Watkins, Minnesota. The engineer's estimate was \$919,124.80. Staff believes the lower bidder has the financial responsibility to complete the project and recommended awarding the bid to Geislinger and Sons, Inc.

It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to award the MSCWMO Perro Creek Outlet Project to Geislinger and Sons, Inc., Watkins, Minnesota, in the amount of \$850,582.49, which includes Alternate A in the amount of \$7,206.00. Motion carried.

Consider agreement with SEH for professional services for Perro Creek Outlet Project: Engineer Peters noted the MSCWMO has already approved this agreement amendment, and as the fiscal agent for the project, the City of Bayport's approval is also required. The amendment includes \$7,737.50 for providing updated design services due to the time lag from 2003 to present, and an estimated \$134,315.00 for construction services. Councilmember Kraftson questioned the cost of the estimated \$285,000.00 for engineering services, roughly 30% of the construction cost. Engineer Peters stated that the project bids were very favorable, resulting in a higher ratio of engineering costs than in past years.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to approve the amendment to the agreement for professional services between the MSCWMO and SEH, for an additional \$7,737.50 in design services, for a total of \$151,737.50, and an estimated \$134,315.00 for construction services. Motion carried.

## **NEW BUSINESS**

Consider an amendment to the city's ordinance regarding liquor licenses: Attorney Vivian reviewed a recommendation to modify the city's liquor license ordinance to allow for the imposition of conditions on liquor licenses. He stated the changes simply clarify the ordinances and more clearly reflect state law and intent. He stated the modifications would have no impact on current liquor licenses and/or any pending litigation. Councilmember Johnson questioned whether the modification should contain specific language that the conditions relate to the health, safety and welfare of residents. Attorney Vivian stated that he was comfortable with the proposed language and its intent.

Councilmember Johnson introduced the following ordinance and moved its adoption:

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
AMENDING CHAPTER 6, ALCOHOLIC BEVERAGES, 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  
Connie Carlson – aye

Dan Johnson – aye  
Torry Kraftson – aye

Judy Seeberger – aye

Discussion of Mary-Clare Holst water bill: Discussion continued on the property owner’s request to reimburse her for the water used during the construction of her home, which has been assessed to her property taxes (approximately \$1,000.00). She has paid half of the assessment to date. Attorney Vivian noted the City Council would be setting a precedent by waiving the fees. The property owner believes there was a problem with the meter since the massive water usage (346,000 gallons) was recorded between November 2006 and the end of December. Councilmembers voiced support for waiving the fee, due to the unique circumstances of this issue and the homeowner’s efforts to collect payment from the builder.

It was moved by Councilmember Johnson and seconded by Councilmember Kraftson that the City of Bayport accept an assignment of Mary-Clare Holst’s judgment against the builder for the amount of this assessment, and upon that assignment, the City of Bayport will treat the half that has not been paid as a credit against Ms. Holst’s future water bills and remove the other half from the county assessment roll. Motion carried.

**COUNCIL ITEMS AND ANNOUNCEMENTS**

1. Councilmember Kraftson thanked city staff for the great job in keeping Bayport’s skating rinks in good condition this winter.

**CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS**

Discuss potential 2009 budget revenue loss workshop: City department heads are taking measures to meet the anticipated cut in local government aid (LGA), such as delaying equipment purchases and cutting back on staffed library hours. Administrator McGuire recommended waiting until the final LGA numbers are available to schedule a workshop and/or bring budget cut recommendations to the City Council.

Code enforcement discussion: Administrator McGuire requested direction from the City Council on how vigorously city staff should enforce violations of city code regarding outdoor storage and property maintenance issues. It was decided to add this topic as a discussion item during the budget workshop to be scheduled in the near future.

Closed session to discuss pending litigation: It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn to closed session at 7:33 p.m. to discuss pending litigation. Motion carried.

Mayor Nowaczek resumed the regular meeting at 8:20 p.m. Mayor Nowaczek stated discussions continue to settle a pending lawsuit.

**ADJOURNMENT**

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to adjourn the meeting at 8:22 p.m. Motion carried.