

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBER**

**May 4, 2009  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of May 4, 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 Mike McGuire, Fire Chief Mike Bell, Police Chief Laura Eastman, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, and Attorney Nick Vivian

**PROCLAMATIONS/COMMENDATIONS/PETITIONS**

1. The April 2009 recycling award went to John Mariana.
2. Police Officer Dave Wynia announced the Bayport Police Department would be holding its annual Safety Camp for youth entering grades 3-5 on June 15-16, 2009, at Lakeside Park. Interested parties were encouraged to register as soon as possible. Registration forms have been dropped off at area schools, are available at City Hall and on the city's website. Police Chief Eastman stated Croixdale would be hosting a community watch program meeting on Tuesday, May 26, 2009, 6:00 p.m., and the public is invited to attend.
3. Police Chief Eastman displayed a picture of the new police squad car, a black and white Dodge Charger, and noted it is more fuel efficient than the Durango squad vehicles.
4. Mayor Nowaczek stated the latest Department of Health testing continues to indicate no TCE present in Bayport's water after it passes through the air stripper.

**OPEN FORUM**

1. Pam Polzin, 241 6<sup>th</sup> Street North, indicated that her hedges were damaged when city crews trimmed trees. Administrator McGuire requested that Ms. Polzin contact City Hall with her phone number and then the Public Works supervisor would assess the damage, and city staff would take the appropriate action on Ms. Polzin's concern.
2. Andy Olson, Stillwater Area High School Girls' Soccer Coach, requested approval to fundraise in Bayport on June 22<sup>nd</sup> to benefit the boys' and girls' soccer teams. Team members and chaperones would go door-to-door selling logos for placement on curbs/driveways/garage doors. Councilmembers were supportive of the effort but requested logos not be painted on city sidewalks.

It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to approve the Stillwater Area High School fundraising effort during the month of June 2009. Motion carried.

**AMENDMENTS TO AGENDA**

1. Councilmember Seeberger requested that revisions to city ordinance section 729.03 (small bird and fowl permit requirements) be discussed. She requested allowing up to four birds/fowl and that the annual licensing requirement be altered. It will be added as #3 under new business.
2. Councilmember Kraftson requested that discussion of the administrative budget be added as item #4 under new business.

Mayor Nowaczek requested that future additions to the agenda be made in advance of the meeting.

### **CONSENT AGENDA**

Mayor Nowaczek read items 1-11 on the consent agenda. Councilmember Carlson requested clarification on the process of filling the remaining openings on the Bayport Fire Department. Administrator McGuire indicated background checks are being conducted on other applicants and the city is advertising additional openings. He also noted councilmembers were given a handout regarding a request for a \$300.00 donation for the Memorial Day parade, which is an additional part of consent item #11.

Councilmember Carlson introduced the following resolution, adding approval of the \$300.00 donation request to the Bayport American Legion for the Memorial Day parade, and moved its adoption:

### **Resolution 09-08**

### **RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, APPROVING CONSENT AGENDA ITEMS 1-11 FROM THE MAY 4, 2009 CITY COUNCIL AGENDA**

1. April 6, 2009 City Council regular meeting minutes
2. April payables and receipts
3. April building, plumbing and mechanical permits
4. Special event application and lawful gambling permit for Andersen Corporation ALCO picnic at Lakeside Park
5. Temporary liquor license for Bayport Marina
6. Posting “no parking” signs on Point Road
7. Accept a \$9,087.00 donation form the Bayport Fire Relief Association to purchase a new thermal imaging camera for the fire department
8. Change order for Perro Creek Outlet Project
9. Lawful gambling permit for American Legion to conduct pull-tabs at Captain’s Corner, 193 3<sup>rd</sup> Street North, Bayport, MN 55003
10. Authorization to add two new members to the fire department
11. Special event application for Memorial Day parade

The motion for adopting the foregoing resolution was duly seconded by Councilmember Johnson. Councilmember Kraftson inquired whether the city had changed its policy on charitable contributions and recommended the City Council have guidelines for consistency when approving donations. Attorney Vivian noted councilmembers should consider donations that would cover expenses for services the city would typically provide but may not have funding for, but not requests that are purely charitable requests.

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 Planning Commission did not meet in April.

Councilmember Kraftson reported on the April 9, 2009 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). A NEMO-sponsored workshop will be held for city staff and officials on June 17, 2009, to discuss the issue of water contamination. The next MSCWMO meeting is scheduled for Thursday, May 14, 2009, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Johnson reported on the April 15, 2009 Cable Commission meeting, noting another vehicle had been purchased to meet the needs of the technicians. The next meeting will be held on Wednesday, June 17, 2009, 7:00 p.m., at the Valley Ridge Mall, and is open to the public.

Councilmember Johnson reported on the April 23, 2009 meeting of the Library Board. The 2008 audit was discussed and \$5,300.00 was raised at the annual author's luncheon last month. The next meeting is scheduled for Thursday, May 27, 2009, 6:00 p.m., at the library, and the public is invited to attend.

Councilmember Carlson reported the Lower St. Croix Partnership would meet on Thursday, May 21, 2009, 7:00 p.m., at the St. Croix County Government Center.

### **UNFINISHED BUSINESS**

#### Consider a special event application and request to conduct a seasonal farmer's market at Perro Park:

Patti Alt indicated the Bayport Community Action League (BCAL) had submitted a special event application to hold a farmer's market on the ball field at Perro Park on Mondays from 3:00 p.m.-7:00 p.m., beginning July 13<sup>th</sup> through October 26<sup>th</sup>. Rules and regulations for vendors have been established, and eight vendors have already expressed interest in participating, with 15 vendors anticipated. Attorney Vivian stated he has reviewed the request from a legal standpoint and no issues were identified.

It was moved by Councilmember Carlson and seconded by Councilmember Johnson to approve the special event application request as submitted by the BCAL to conduct a seasonal farmer's market at Perro Park on Mondays, 3:00 p.m.-7:00 p.m., July 13, 2009-October 26, 2009.

Final review of base bid package and alternate bid items for Phase I improvements to Barker's Alps Park: Landscape architect Larry Wacker stated he has been working with civil engineers on the construction documents for Phase 1 improvements, which he plans to advertise for bids on May 5<sup>th</sup>. He reported that the improvements at the south end of the park are being bid as alternates because an agreement has yet to be concluded with Neighborhood Development Partners (NDP), which will provide additional funding for improvements through the 429 assessment process. He reviewed the playground equipment for the south end of park, indicating \$160,000.00 has been budgeted for this purpose. Discussion followed on whether noise would be an issue with placement of the basketball court. Mr. Wacker noted there is approximately 200 feet between the proposed half court and the nearest residential property lot line, and he feels confident the placement and size of the court will attract a younger age group, which would minimize noise issues. There are no plans for adding play equipment in the lower portion of the park in this improvement phase. Mr. Wacker indicated there are no plans for irrigating the ball fields at this time, but it would be reasonable to add irrigation at a later date. Restoration of the area will be by done by seeding, which is expected to be done in middle to late August. It was suggested that staff remind the St. Croix Valley Athletic Association that the south field would be unusable once construction begins.

Administrator McGuire stated NDP is requesting a commitment from the city for use of the 429 public improvement process for the completion of all subdivision improvements, including sewer, water, and street installation, as well as prairie restoration. This could amount to \$20,000.00-\$25,000.00 per lot, with 70 lots yet to be developed. He does not believe there is a great risk to the city with this type of process; however, he does not recommend proceeding with a formal commitment at this time because it could be several years before the improvements are actually made, but rather a more conceptual discussion. Councilmembers voiced concern with expanding the scope of the 429 process improvements beyond the park project that is well defined, to major infrastructure projects that are ill-

defined at this time. Mr. Wacker is hopeful the NDP funding agreement can be finalized by June 1<sup>st</sup> when the bid will be awarded.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to approve the plans and specifications for the Barker's Alps Park Phase I improvements and authorize bidding for the project. Motion carried.

Consider fees for PERA special legislation: Administrator McGuire reviewed the city's action to promote legislation relating to the PERA 30-day separation rule and related attorney's fees in the amount of \$7,655.50. Mayor Nowaczek indicated the city had hoped the special legislation effort, if passed, would grandfather Administrator McGuire's case into the new legislation and would not require him to take a 30-day separation, beginning May 31, 2009. It is anticipated legislation will pass eliminating the separation rule for future retirees, but it would not apply to Administrator McGuire. Due to the timing of the required action, there was not enough time to get City Council approval to engage the lobbyist Best & Flanagan, LLP, and Administrator McGuire stated he would guarantee the bill, if need be. Administrator McGuire would like the city to pay the entire amount, but Mayor Nowaczek indicated his understanding was that the cost would be split 50-50. Councilmember Carlson stated it was her understanding that the fees would be split between Administrator McGuire and the city. Councilmember Seeberger stated she was not in favor of expending any city funds, as the bill was not incurred on behalf of the City Council, and her understanding was that Administrator McGuire would pursue this action on his own. Councilmember Johnson believes the city stood to benefit from the effort and is in favor of the city paying a portion of the fee. Councilmember Kraftson indicated he would support a 50-50 split since Mayor Nowaczek, on behalf of the City Council, had discussed a split payment with Administrator McGuire.

It was moved by Councilmember Johnson and seconded by Councilmember Kraftson to pay fifty percent of the bills from Best & Flanagan, LLP, and Lockridge Grindal Nauen, PLLP, relating to the Public Employees Retirement Association matter that the city had requested lobbyist services for. Motion carried 4-1, with Councilmember Seeberger voting nay.

Update on 2009 Recycling and Solid Waste Scholarship and alternate use of funds: Despite aggressive promotion of the program, no applications have been received this year for the \$500.00 scholarship. Assistant Administrator Taylor indicated there is a need for recycling receptacles, signage and decals at city parks, and Allied Waste supports this alternate use of funds.

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to use the \$500.00 surplus from the Allied Waste recycling and solid waste scholarship to purchase recycling receptacles and related materials. Motion carried.

## **NEW BUSINESS**

Consider an ordinance amendment to Chapter 2 Administration requiring background investigations for employment candidates: Attorney Vivian reported the State of Minnesota requires cities to have an ordinance specifying that criminal background checks can be performed on employment candidates. This amendment adds the required language and approval is recommended.

Councilmember Johnson introduced the following ordinance and moved its adoption:

### **Ordinance #806**

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE VIII PERSONNEL POLICY, 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                      Dan Johnson – aye                      Judy Seeberger – aye  
Connie Carlson – aye                      Torry Kraftson – aye

Consider authorization to complete a feasibility report for 2009 sidewalk improvements: Engineer Peters reviewed the city’s history of annually replacing areas of public sidewalks that pose a safety issue, noting the 2009 budget includes \$20,000.00 for a sidewalk improvement project. In addition, the City Council previously approved up to \$20,000.00 for replacement or installation of approved handicapped pedestrian ramps, and staff recommended approval of a single improvement project to address both improvements. A feasibility report, public improvement hearing and assessment hearing are required for the sidewalk improvement portion of the project. Authorization is requested to have SEH prepare the feasibility report, for a fee not to exceed \$1,000.00, and to set the public improvement hearing for the June 1, 2009 City Council meeting. Staff has not yet determined the sidewalk areas to be improved, and, if feasible, entire blocks of sidewalk would be replaced. Discussion followed on deferring this type of project, given the current economy, and it was noted the city was likely to receive very favorable quotes at this time.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 09-09**

**RESOLUTION ORDERING FEASIBILITY REPORT AND CALLING PUBLIC HEARING ON IMPROVEMENTS FOR 2009 SIDEWALK REPLACEMENT PROJECT**

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

Discuss the city ordinance regulating chickens: Councilmember Seeberger stated she has had two hens and requested that the ordinance be revised to allow for up to four small birds/fowl. She also questioned the necessity of requiring applicants to obtain written approval from neighbors as part of the annual licensing process. Administrator McGuire noted that the first year of permitting small birds/fowl in the city has gone well, and staff believes obtaining annual approval from neighbors is not necessary. The general consensus of the councilmembers was to allow up to four small birds/fowl and to allow city staff to renew the licenses administratively. Attorney Vivian clarified that the current ordinance does not require the annual consent of the adjacent property owners.

It was moved by Councilmember Seeberger and seconded by Councilmember Carlson to authorize staff to draft an amendment to Chapter 729 regarding small bird and fowl to allow up to four small birds/fowl and to note that city policy authorizes staff to handle the licensing administratively and require neighbor consent, only as deemed necessary by complaints received. Motion carried.

A revised ordinance will be brought to the June meeting for approval.

Discuss administration budget issues: Councilmember Kraftson distributed a memo detailing suggested changes to the current administrative structure in light of the anticipated cuts in state aid. The proposed changes would eliminate the assistant administrator position as of January 1, 2010; terminate the contract with McGuire Management Services; and begin the search for a new administrator. He believes

the administrative salaries paid by the City of Bayport are out of line when compared to area cities of comparable size. Discussion ensued on following established procedures for adding agenda items in order to allow adequate time to review materials. Councilmember Johnson recommended reading the book, Extraordinary Board Leadership. Mayor Nowaczek and Councilmember Johnson stressed the importance of retaining institutional memory and experience. Mayor Nowaczek proposed scheduling a workshop special meeting to explore the issues raised by Councilmember Kraftson. Administrator McGuire stated the numbers quoted by Councilmember Kraftson are inaccurate and suggested scheduling a quarterly workshop review of the administration department, similar to the review of the fire department prior to tonight's meeting. Councilmembers Seeberger and Carlson encouraged scheduling the review in May, instead of waiting until the next quarter. Mayor Nowaczek noted there appears to be fundamental philosophical differences amongst councilmembers and two separate meetings may be needed, the first one in the next few weeks, followed by the administration department review suggested by Administrator McGuire.

It was moved by Councilmember Carlson and seconded by Councilmember Kraftson to set a special meeting for Monday, May 18, 2009, at 5:00 p.m., to review administrative budget issues. Motion carried.

Mayor Nowaczek and Councilmembers Seeberger and Carlson thanked Councilmember Kraftson for bringing the issue up for City Council discussion. Councilmember Seeberger noted she does not believe the actions proposed would immediately upset the city's administrative structure, since there is a 90-day termination clause in Administrator McGuire's contract.

#### **COUNCIL ITEMS AND ANNOUNCEMENTS**

1. Councilmember Kraftson stated that residents should be aware that the Stillwater Marathon would be utilizing a portion of Bayport roadways for its course on Sunday morning, May 24, 2009. Chief Eastman indicated planning sessions continue for the marathon and it has not been decided whether portions of Highway 95 and 5<sup>th</sup> Avenue North would be closed to traffic during the event. She indicated her department is working to ensure a safe event for participants and residents.
2. Councilmember Carlson announced that the Bayport American Legion would be having a smelt fry on Saturday, May 23, 2009, from 3:30 p.m.-7:30 p.m., followed by a free dance, with DJ, Chopper, from 8:00 p.m. to midnight.

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

Update on merchandise and recreational equipment available at beach house: The following items will be available for purchase this season at the Lakeside Park concession stand: floating devices, sunscreen, goggles and beach toys. The city will also have some recreational equipment available for checkout, with appropriate identification, which may include horseshoes, volleyball net and ball, bocce ball, waffle ball, Frisbee, Nerf football, all-purpose kickball, and plastic lawn games. It was noted that the policy regarding floating devices has been revised, and new signage indicating they are allowed at the beach has been installed.

Update on local government aid (LGA) funding: There is no further word on cuts to LGA and staff continues to believe the city is well positioned financially to respond to anticipated reduction in state aid. It may be the middle of June before LGA funding is announced.

#### **ADJOURNMENT**

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to adjourn the meeting at 8:12 p.m. Motion carried.