

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
NOVEMBER 8, 2010
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor Nowaczek called the regular City Council meeting of November 8, 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, Torry Kraftson and Judy Seeberger

Members Absent: None

Others Present: Administrator Mitch Berg, Police Chief Laura Eastman, Engineer Barry Peters, Assistant City Administrator/ Planner Sara Taylor, and Attorney Nick Vivian

APPROVAL OF AGENDA

Mayor Nowaczek stated the city had received a resignation letter from Councilmember Dan Johnson dated October 19, 2010, and recommended moving New Business item #1, *Consider a resolution accepting Councilmember Dan Johnson's resignation and declaring a vacation on the City Council*, to the first order of business. He suggested appointing one of the newly elected councilmembers to fill the remainder of Councilmember Johnson's term beginning with tonight's meeting. Mayor Nowaczek recognized and thanked Dan for his contributions and service to city government during his seven year term on the City Council.

It was moved by Councilmember Seeberger and seconded by Councilmember Kraftson to approve the amended November 8, 2010 agenda, moving New Business item #1, *Consider a resolution accepting Councilmember Dan Johnson's resignation and declaring a vacation on the City Council*, to the first order of business. Motion carried.

NEW BUSINESS

Consider a resolution accepting Councilmember Dan Johnson's resignation and declaring a vacancy on the City Council:

Councilmember Kraftson introduced the following resolution and moved its adoption:

Resolution 10-27

**RESOLUTION ACCEPTING A RESIGNATION AND DECLARING A VACANCY ON THE
BAYPORT CITY COUNCIL**

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

Discussion followed on appointing a newly elected councilmember to fill the vacancy for the remainder of 2010. All three of the newly elected members indicated they would be willing to fill the two-month vacancy as needed.

Councilmember Carlson introduced the following resolution, appointing Michele Hanson to fill the vacancy, and moved its adoption:

Resolution 10-28

RESOLUTION TO FILL A VACANCY ON THE BAYPORT CITY COUNCIL

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

SWEARING IN OF COUNCILMEMBER MICHELE HANSON

Mayor Nowaczek administered the Oath of Office to Michele Hanson to fill the two-month vacancy on the City Council.

PROCLAMATIONS/COMMENDATIONS/PETITIONS

1. Mayor Nowaczek recognized the efforts of staff and election judges during last week’s election. He thanked the City Council candidates for participating in the election process and congratulated the three newly elected members. Newspaper coverage initially reported erroneous numbers for the Bayport City Council results. He clarified that candidate Joe Ritzer had received 188 votes and there were five write-in votes.
2. The October recycling award was given to Debbie Flores.
3. The Public Works department will be flushing fire hydrants November 9th-12th.

OPEN FORUM – None

CONSENT AGENDA

Mayor Nowaczek read items 1-12 on the consent agenda.

1. October 4, 2010 City Council regular meeting minutes
2. October payables and receipts
3. October building, plumbing and mechanical permits report
4. Special event application from BCAL for “Lighting of the Village Green” on Wednesday, December 1, 2010
5. Grant agreement for police department operation nightcap project
6. Joint Powers Agreement with City of Stillwater for purchase of road salt
7. Joint Powers Agreement with Department of Corrections for mutual aid
8. Designee to assist in evaluation and selection process of city auditor
9. Canvassing the tabulation of votes and declaring the results of the 2010 General Election
10. Renewal of Subsurface Sewage Treatment System Inspection Services with Washington County
11. Special event application from The Bikery for a cyclocross event at Barker’s Alps Park on Saturday, November 20, 2010
12. Authorization to proceed with hiring process for a part-time police officer

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

Resolution 10-29

**A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-12 FROM THE
NOVEMBER 8, 2010 CITY COUNCIL AGENDA**

The motion for adopting the foregoing resolution was duly seconded by Councilmember Seeberger and upon roll call being taken, the following voted via voice:

Jon Nowaczek – aye
Connie Carlson – aye
Michele Hanson – aye

Torry Kraftson – aye
Judy Seeberger – aye

RIVERFRONT ADVISORY COMMISSION REPORT

Administrator Berg reviewed the results of the October 12, 2010 meeting, noting the next meeting is scheduled for November 9, 2010. The commission continues to refine and prioritize objectives and has requested the City Council consider allocating up to an additional \$500.00 for facilitator Mark Nagel to help the commission complete its work by January 2011. Mayor Nowaczek recommended postponing a public input session on the commission's recommendations until after the holiday season, to hopefully gain more participation by residents.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to allocate additional funds for facilitator Mark Nagel, in an amount not to exceed \$500.00. Motion carried.

COUNCIL LIAISON REPORTS

Councilmember Seeberger reported the October and November Planning Commission meetings have been cancelled due to lack of business.

Councilmember Kraftson reported on the October 14, 2010 meeting of the Middle St. Croix Watershed Management Organization. Grant money for rain gardens in Bayport and Stillwater will be available in 2011-2012 as part of an agreement with the St. Croix River Association. The next meeting is scheduled for Thursday, December 9, 2010, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Carlson reported on the October 28, 2010 meeting of the Library Board. There will be an opening on the board in 2011, as Sandy Ness has met her term limits. The library received a \$65,000.00 grant for operating expenses from the Fred C. and Katherine B. Andersen Foundation. The fundraiser, Girl's Night Out, was well attended on November 7th and the amount raised will be reported at a future meeting. The next Library Board meeting is scheduled for Thursday, November 18, 2010, 6:00 p.m., at the library and the public is invited to attend.

Councilmember Carlson reported on the October 20, 2010 meeting of the Cable Commission. The 2011 budget was approved, three \$500.00 grants were awarded for local programs, and the commission approved hiring an accountant to assist with bookkeeping duties. The next meeting will be scheduled in December.

PUBLIC HEARING - None

UNFINISHED BUSINESS

Consider bids and award contract for the 2010 I/I Improvement Project: Engineer Peters reviewed the three bids submitted, ranging from a high of \$231,642.50 to the low bid of \$188,850.50 submitted by Visu-Sewer, Inc., of Pewaukee, Wisconsin. The engineer's estimate was \$224,305.00. SEH staff has worked with Visu-Sewer on other projects and believes they are qualified to complete the project. The majority of the work will be done early next year, with completion by May 2011.

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to award the contract for the 2010 Inflow and Infiltration Improvement Project to Visu-Sewer, Inc., Pewaukee, Wisconsin, in the amount of \$188,850.50. Motion carried 4-1, with Councilmember Hanson abstaining.

Administrator Berg noted the city will be applying for a \$50,000.00 Metropolitan Council grant for this project and should be notified in January whether the grant application is approved.

Consider a resolution accepting a petition, awarding the contract, and authorizing the preparation of plans and specifications for a curb, gutter, and stormwater improvement project on Second Avenue North: Administrator Berg reviewed the background and detail for an improvement project on Second Avenue North, between 3rd Street North and 2nd Street North. The two affected private property owners have signed the improvement petition, and staff requested authority to sign for the City of Bayport, as owners of abutting Perro Park. This would provide 100% participation of affected owners.

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to authorize the city administrator to sign the petition for local improvement, as one of the abutting property owners, for the 2nd Avenue North improvement project. Motion carried.

Councilmember Kraftson introduced the following resolution and moved its adoption:

Resolution 10-30

RESOLUTION DECLARING ADEQUACY OF PETITION AND ORDERING PREPARATION OF REPORT FOR THE SECOND AVENUE NORTH IMPROVEMENT PROJECT

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
Michele Hanson – aye	

Administrator Berg reviewed quotes for engineering services for the project, noting that the original request for quotations included a small project along 1st Avenue North. The city has not received the required petition for this improvement and does not recommend proceeding with the work at this time.

The quotes for the 2nd Avenue project are as follows: City of Stillwater, \$6,400.00; I&S, \$8,250.00; and Short Elliott Hendrickson, \$10,300.00. The pricing includes preparation of the feasibility report, as well as design and construction services. The quotes also incorporate addendum pricing for repair of a failing retaining wall and installation of five parking spaces requested by People’s Congregational Church. Administrator Berg recommended awarding the contract for the feasibility report and engineering services to the low quoter, City of Stillwater, and recommended that staff administratively amend Resolution 10-30 to reflect the City Council’s pending action to award the project. Councilmember Kraftson stated he works for the City of Stillwater and will recuse himself from voting on the award of engineering services for the project.

It was moved by Councilmember Seeberger and seconded by Councilmember Carlson to accept the quotation from the City of Stillwater in an amount not to exceed \$6,400.00 to complete the feasibility report and provide engineering services for the 2nd Avenue North Improvement Project. Motion carried 4-0, with Councilmember Kraftson abstaining.

City curb, gutter, sidewalk, and private driveway apron replacement policy: Administrator Berg reviewed changes made to the policy, noting there are many variables for these types of replacement requests. With the assistance of the city engineer, four cost-sharing factors were developed for consideration. Councilmembers stressed the importance of clarifying when the city participates in cost-sharing for these types of projects. Mayor Nowaczek requested the policy include written findings from the city engineer and public works director for each request, to include the factors considered and

reasoning behind their decision. These findings would provide valuable information if the decision is appealed. Councilmember Kraftson indicated the policy still contains a good deal of discretion on the part of city staff and questioned if the policy could be tightened up to provide hard and fast rules for the varying circumstances. The general consensus was that the policy is a good starting point and will help avoid situations similar to those encountered recently. City Attorney Vivian stated the four cost-sharing factors outlined will serve as key factors as staff evaluates whether there is a necessity to contribute to a replacement project. Discussion followed on documenting concerns/complaints relating to curb, gutter and sidewalks issues, and Administrator Berg stated a log is kept at City Hall.

It was moved by Councilmember Seeberger and seconded by Councilmember Carlson to adopt the city curb, gutter, sidewalk and private driveway apron cost sharing policy, with the addition of language requiring findings of fact made with regard to the decision made on reimbursement. Motion carried.

Consider adopting ordinances establishing gas franchise and electric franchise fees: Administrator Berg reviewed the background of establishing gas and electric franchise fees that will provide \$40,000.00-\$50,000.00 of revenue in the 2011 budget. He reviewed two revised ordinances distributed at the beginning of the meeting that reflect negotiated language between the city and Xcel Energy. If the ordinances are adopted tonight, a franchise fee of \$1.25-\$1.75 per service would be added to Xcel Energy bills beginning in February 2011. Staff plans on providing residents with information on the franchise fees prior to the first affected billing statement. Discussion followed on the classification language and rates, and Attorney Vivian explained the City of Bayport does not utilize all of the Xcel Energy classifications listed in the proposed ordinances; however Xcel Energy's operating system requires all classifications be included. Councilmember Hanson questioned the \$50.00 fee for medium and large interruptible gas service, and staff was directed to verify the fee amount and provide clarification on whether the rates are proportional.

Councilmember Kraftson introduced the following ordinance and moved its adoption:

Ordinance #823

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AMENDING CHAPTER 58 - UTILITIES, ARTICLE 7 OF THE BAYPORT CITY CODE TO
IMPLEMENT AN ELECTRIC SERVICE FRANCHISE FEE**

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
Michele Hanson – abstained	

Councilmember Kraftson introduced the following ordinance, contingent upon city staff verifying with Xcel Energy that the fees are correct, and moved its adoption:

Ordinance #824

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
AMENDING CHAPTER 58 - UTILITIES, ARTICLE 8 OF THE BAYPORT CITY CODE TO
IMPLEMENT A GAS SERVICE FRANCHISE FEE**

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
Michele Hanson – abstained	

NEW BUSINESS

Consider revisions to lease agreement with Boy Scout Troop #113: Administrator Berg explained a request from Bayport Boy Scout Troop #113 to revise its lease agreement with the city for the troop's building located near the entrance to Lakeside Park, due to difficulty in acquiring liability insurance. Bethlehem Lutheran Church, one of the troop's sponsors, would assume the lease on their behalf. He reviewed further modifications to the lease that would increase the limit for liability to no less than \$1,000,000.00, require that exterior work follow all applicable zoning and building requirements, and extend the lease term to 99 years. It was recommended that the term "Lessor" in the first paragraph of the terms and conditions be changed to "Primary User." Discussion followed on the pros and cons of extending the lease for 99 years, including whether the city should reserve the right to review the insurance limits at a future date. Roger Knuteson, representing the Boy Scouts and Bethlehem Lutheran Church, explained the troop is looking for a long-term commitment and partnership, based on its previous 88-year history with the city. He also explained the insurance for the scout building would be tied in with the church's insurance and increased at the same level as needed in the future.

It was moved by Councilmember Kraftson to approve the lease agreement between the City of Bayport and Bethlehem Lutheran Church on behalf of the Boy Scouts of America Chartered Organization for Troop 113 of Bayport, Minnesota. Motion was amended to change the term "Lessor" in the first paragraph of the terms and conditions to "Primary User." Councilmember Seeberger seconded the amended motion. Motion carried.

Consider quotes for a survey of the ice road easement across Bayport Estates: Administrator Berg reviewed the history of efforts to clarify the ice road easement as it runs across Bayport Estates. A partial survey was completed, but not recorded, in 1991. The Bayport Estates Homeowner's Association is requesting the city survey the remainder of the public road at this time. The original surveyor, Barry Stack, has offered to complete the full survey for \$1,500.00, which is considerably less than other quotes. Staff is requesting an expenditure of up to \$3,000.00, as additional work is anticipated because of legal issues surrounding the easements. Attorney Vivian noted there may be an issue with a limited section of the easement, as a property owner is contesting the easement. He further explained the two issues surrounding the ice road easement. Councilmember Kraftson recommended using similar language as crafted for the Waterford Condominium easement agreement.

It was moved by Councilmember Kraftson and seconded by Councilmember Carlson to authorize the expenditure of \$1,500.00 to Barry Stack to complete the survey and up to an additional \$1,500.00 for legal expenses, for a total not to exceed \$3,000.00. Motion carried.

Consider quotes to complete a pavement management study: Administrator Berg noted \$15,000.00 was allocated in the 2010 Capital Improvement Plan for a pavement management study that will help prioritize the annual street maintenance budget and identify streets in need of repair. The last study was done in 1988. Four quotes were received for the study, ranging from a high of \$16,000.00 to the low quote of \$5,500.00 submitted by I & S Group. Councilmembers noted the importance of being proactive with preventive maintenance for our aging city streets. Councilmember Kraftson stated he would abstain from voting on the matter because his employer, the City of Stillwater, submitted a quote for the project.

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to award the pavement management study to I&S Group at a cost not to exceed \$5,500.00. Motion carried 4-0, with Councilmember Kraftson abstaining.

COUNCIL ITEMS AND ANNOUNCEMENTS

1. Councilmember Kraftson recognized the Police and Fire Departments for their successful gatherings Halloween night, with special thanks to the Police Department and reserve officer staff members for ensuring a safe evening. Not Justa Café and Bread Art were recognized for their donations.
2. Councilmember Hanson acknowledged her appointment to the City Council and requested a city map and calendar be accessible for councilmembers during meetings.
3. Councilmember Hanson recognized and thanked resident Mary Jo Weller for picking up refuse on her daily walks.
4. Councilmember Kraftson recognized Administrator Berg's performance during his first year with the City of Bayport.

CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS

City Administrator update: Administrator Berg noted City Hall will be closed Thursday, November 11th for Veteran's Day. He encouraged residents interested in filling positions on either the Library Board or Planning Commission to submit their applications to City Hall by November 15th. Yaminah Oliver, administrative intern, was thanked for her assistance in developing a workshop on the Emerald Ash Borer, as well as an Adopt-A-Park program to help beautify Bayport. Groups interested in learning more about the Adopt-A-Park program are encouraged to contact City Hall.

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Seeberger to adjourn the meeting at 8:05 p.m. Motion carried.

City Administrator/Clerk