

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
MAY 6, 2013  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of May 6, 2013 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 Susan St. Ores, Councilmembers Connie Carlson, Dan Goldston, Michele Hanson and Patrick McGann

Members Absent: None

Staff Present: Acting Administrator/City Planner Sara Taylor, Police Chief Laura Eastman, Public Works Supervisor Mel Horak, Engineer Barry Peters, Attorneys Jennifer Nodes and Andy Pratt, and Fire Chief Mark Swenson

**APPROVAL OF AGENDA**

Acting Administrator Taylor requested the addition of *Approval of a temporary liquor license for Bayport Marina on Saturday, June 1, 2013*, to the consent agenda.

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to approve the May 6, 2013 City Council agenda as amended above. Motion carried 5-0.

**PROCLAMATIONS/COMMENDATIONS/PETITIONS/ANNOUNCEMENTS**

1. Mayor St. Ores and Fire Chief Swenson thanked Matt Bell for his 20 years of service to the Bayport Fire Department. Matt was presented with a proclamation and plaque to recognize his contributions and retirement. Mayor St. Ores thanked the entire Fire Department personnel and their families for the time and efforts provided on behalf of the city.
2. Mayor St. Ores announced the city would not be sponsoring a citywide cleanup event this year; however, Allied Waste offers curbside pickup of yard waste and household items. More information can be found on the city's website or by contacting Allied Waste.
3. The BCAL is hosting their annual citywide garage sale on June 7 and 8, 2013. Contact City Hall to sign up.
4. The April recycling award recipient is Holly Langworthy who will receive \$30.00 for her recycling efforts, with funding made possible by a grant from Washington County.
5. The Middle St. Croix Watershed Management Organization and Washington Conservation District are sponsoring a cleanup of the city's rain gardens at Lakeside and Perro Parks on Wednesday, May 29, 2013, from 3:00-7:00 p.m. Contact City Hall if you are interested in participating.
6. Residents were encouraged to contact or visit the library for information on the events and programs planned this summer.

**OPEN FORUM**

1. Youth representatives from the St. Croix Valley Roots and Shoots Group requested permission to expand the frog habitat garden at Barker's Alps Park, with limited assistance from the city.

It was moved by Councilmember Hanson and seconded by Councilmember Carlson to approve the St.

Croix Valley Roots and Shoots Group's proposal to expand the frog habitat garden at Barker's Alps Park. Motion carried 5-0.

2. Kevin Western, MnDOT representative, provided an update on the St. Croix River Crossing Project. He noted construction is proceeding, with tree removal and utility relocation starting this month. He stated additional checks and process changes have been implemented upon the discovery of zebra mussels on barges that will be used during the project. He noted work in the river will begin at the end of the month, and a no wake zone will be implemented in the area. Weekly updates are available on the project's website. MnDOT will be hosting a business open house at the Bayport Public Library on Wednesday, May 29, 2013, from 7:30-9:30 p.m., and a public open house on Thursday, May 30, 2013, from 4:30-6:30 p.m.
3. Adam Josephson, MnDOT representative, provided an overview of the maintenance project on Highway 95, between 5<sup>th</sup> Avenue South in Bayport and the railroad bridge. The project that started today will replace the deteriorating curb and gutter, drainage structures and guardrail along the east side of the highway. Due to the weather delay, the 5-6 week project is expected to be completed in early June.
4. Cory Slagle, Washington County representative, reviewed the design phase of the Pickett Avenue reconstruction project, noting the Pickett Avenue intersection with Highway 95 will be relocated south of the existing roadway. MnDOT will be installing a traffic signal at the intersection. The work will be done in 2014, in conjunction with the St. Croix River Crossing Project work. Details on a public information session during the week of May 20, 2013 are being finalized.
5. Todd Streeter, Greater Stillwater Chamber of Commerce, reviewed the first annual Rockin' Ribs on the River event at Lakeside Park on June 15, 2013. He also provided information on a May 9, 2013 information session for area businesses impacted by the bridge project, as well reviewed the Chamber's recent activity. He requested a \$1,000.00 sponsorship contribution from the City of Bayport to continue the Community Symposium initiatives, which would also entitle the city to receive the rights and benefit of membership in the Chamber. Mayor St. Ores recommended tabling a decision on the monetary request to the June meeting, to allow councilmembers time to review the Chamber information. Councilmembers were invited to the Chamber's annual spring barbecue and mixer on May 23, 2013, at the Bayport Marina.

## **CONSENT AGENDA**

Mayor St. Ores read items 1-8 on the amended consent agenda.

Councilmember Hanson introduced the following resolution and moved its adoption:

**Resolution 13-09**

### **RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-8 FROM THE MAY 6, 2013 CITY COUNCIL AGENDA**

1. April 1, 2013 City Council regular meeting minutes
2. April payables and receipts (check numbers 1135720-1135823)
3. April building, plumbing and mechanical permits reports
4. Special event application from BCAL for ice cream social on June 12, 2013 at Lakeside Park Beach House
5. Purchase of a replacement Toolcat utility work machine for the Public Works Department
6. Agreement with The Planning Company for plan review services
7. Modifications to the 2013 - 2015 labor agreement with Law Enforcement Labor Services, Inc., Local Public Employee Union #226 for the Police Department
8. Approval of a temporary liquor license for Bayport Marina on Saturday, June 1, 2013

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

Susan St. Ores – aye  
Connie Carlson – aye

Dan Goldston – aye  
Michele Hanson – aye

Patrick McGann – aye

**PUBLIC HEARINGS** – None

### **COUNCIL LIAISON REPORTS**

Councilmember Hanson reported on the April meeting of the Cable Commission. There is a possibility that the Cable Commission and Valley Access Channel offices may have to move to another site within the Valley Ridge Mall.

Councilmember Goldston reported on the May 1, 2013 meeting of the Andersen Community Advisory Committee (CAC) meeting. Andersen Corporation continues to monitor the plant's particulate and volatile organic compound (VOC) emission levels through the XL Project.

Mayor St. Ores attended the April Middle St. Croix Watershed Management Organization (MSCWMO) meeting. Along with other councilmembers, she participated in a joint meeting with the Oak Park Heights City Council to discuss the impact the new bridge construction will have on area businesses. Mayor St. Ores and Police Chief Eastman attended a Department of Corrections meeting this week.

Library liaison Connie Carlson encouraged parents to check out the library website for information on the many summer activities planned for area youth. The next meeting is scheduled for Thursday, May 23, 2013, 6:00 p.m., at the library.

Councilmember McGann indicated the Planning Commission would be meeting on Monday, May 20, 2013.

### **STAFF/CITY ADMINISTRATOR REPORTS**

Fire Chief Swenson reported he has been working closely with MnDOT and the Washington County Sheriff's Office this past month on proposed road closures and detours as part of the new bridge project, to develop contingency plans and ensure the department's emergency response is not compromised. He is also working with the bridge contractor on emergency response for increased heavy equipment and barge traffic associated with the project. The Insurance Services Organization (ISO), that determines the classification for homeowner and business insurance rates, has given West Lakeland Township an ISO rating of 10. His staff is working on an ISO plan/test to hopefully reduce the high classification rating and provide relief to homeowners experiencing sharp increases in their homeowner's insurance. He noted the Department of Corrections is receptive to the city's inquiry to purchase land for a new fire station.

Police Chief Eastman reviewed her written report, noting that the department now has 14 volunteer reserve officers who supplement paid staff during many city events and activities. She explained preparations for the Memorial Day Parade on May 27, 2013.

Mel Horak, Public Works Supervisor, reviewed his written report. Staff has been focusing on tree trimming efforts, with an emphasis on low branches, and resolving corner sightline issues, in addition to regular duties.

Acting Administrator Taylor reviewed her written report, noting that the building department has issued 116 permits so far this year, compared to a total of 187 permits issued in 2012. The city will be reviewing an application from the Inspiration developer to proceed with a final plat of 16 lots located in the southern portion of the development. Minimal site improvements will be necessary as much of the infrastructure

required for these lots was installed in conjunction with Phase I of Inspiration. The boat ramp at the 4<sup>th</sup> Avenue boat launch will be repaired in the next few weeks and the new boarding dock will be installed after the high water subsides. Resident boat trailer parking permits for the Andersen Corporation lot are now available at City Hall. Staff received word today that the city has been awarded a Fred C. and Katherine B. Andersen Foundation grant in the amount of \$97,500.00 for improvements to the hockey rink at Perro Park. On behalf of the city, Acting Administrator Taylor thanked the foundation for making these improvements possible and for investing in the city to promote outdoor recreation for our youth and general public.

#### **UNFINISHED BUSINESS - None**

#### **NEW BUSINESS**

Consider drainage and grounds improvement project at City Hall with a cost share grant from the Middle St. Croix Watershed Management Organization: Tara Kline with the Washington Conservation District reviewed concept plans to mitigate the water runoff from the City Hall roof and improve the water quality entering the catch basin and to address the moisture issue that is affecting the building's foundation. The Middle St. Croix Watershed Management Organization (MSCWMO) has agreed to use approximately \$2,194.00 in grant funding for this stormwater improvement project, with the City of Bayport matching the amount through in-kind labor donations, materials and/or cash. She noted the project needs to be completed by May 31, 2013, to meet the requirements of the grant, and that the MSCWMO can coordinate completion by the deadline. Public Works Supervisor Horak has reviewed and approved the plans and noted his concern with the current landscaping and moisture problems on the west side of City Hall. Councilmembers recognized the expertise offered by the MSCWMO for this type of project. Ms. Kline stated there would be minimal ongoing maintenance associated with the improvements.

It was moved by Councilmember Carlson and seconded by Councilmember Hanson to approve a drainage and ground improvement project at City Hall with a cost-share grant from the Middle St. Croix Watershed Management Organization, with a city contribution match of approximately \$2,194.00. Motion carried 5-0.

Consider the 2013-2015 labor agreement with Minnesota Teamsters Public Employee Union #320 for the Public Works Department: Attorney Jennifer Nodes reviewed the proposed labor agreement for the Public Works Department maintenance workers, noting many of the proposed changes are consistent with the Law Enforcement Labor Services (LELS) labor agreement. The proposal includes additional compensation of \$10.00 per month for each water and sewer license, if required by the city, and an additional \$10.00 per year towards uniform allowances. It also includes a contingency in the insurance portion of the agreement for a shift in dependent care premium coverage if these premiums rise by 8% or more, in anticipation of premium increases in 2014. She noted that the contract calls for a 3% wage increase each year. Initially, staff believed that a 3% increase, versus a 2% increase, would be offset by the changes in the premiums employees would pay for health care; however, recent calculations indicate the projected increases in employee premiums would not offset the difference between a 2% and 3% increase over a period of three years. Attorney Nodes recommended approval of the agreement.

It was moved by Councilmember Carlson and seconded by Councilmember McGann to approve the labor agreement between the City of Bayport and the Minnesota Teamsters Public and Law Enforcement Employees' Union, Local No. 320, effective January 1, 2013 through December 31, 2015. Motion carried 5-0.

Consider issuance of new on-sale, Sunday, 2:00 a.m., and off-sale liquor licenses for the tavern/restaurant establishment located at 101 5<sup>th</sup> Avenue South: Acting Administrator Taylor reviewed an application from David Suddath, Mallards, LLC, for new liquor licenses at the tavern/restaurant at 101 5<sup>th</sup> Avenue South. The conditional use permit (CUP) for the property, which includes operation of a restaurant with on-sale

and off-sale liquor and outdoor seating, is not under review at this time. As part of the approval process for the liquor licenses, the city can stipulate the hours of outdoor consumption. Due to complaints with former restaurants in this location and the close proximity to a residential zoning district, staff is recommending that the hours of outdoor liquor service and consumption be limited to 10:00 p.m., Sunday-Thursday, and 12:00 a.m. on Friday and Saturday. These hours are similar or less restrictive to other tavern/restaurant establishments in the city also located adjacent to residential areas. She noted that the city could revoke the 2:00 a.m. liquor license or impose additional restrictions should there be excessive noise or other nuisance complaints related to this license. Prior to the meeting, staff received concerns from the adjacent condominium association and Bayport Marina related to issuance of a 2:00 a.m. liquor license and potential noise issues.

David Suddath, proprietor of the new Mallard's restaurant, indicated he has many years of experience in the restaurant business and is excited to be opening his family-style restaurant in Bayport. He hopes to open Memorial Day weekend and has been in communication with the Bayport Marina manager to address the marina's concerns. He plans to have extra security for large events, such as banquets and wedding receptions, to ensure all requirements associated with the liquor licenses are adhered to. He is working with the city on the sign at the entrance to the area and stated there are no plans for a defined outdoor smoking area.

Bruce Nordquist, 110 Mariner Way, expressed concern with issuing a 2:00 a.m. liquor license in a quiet neighborhood with no similar establishments in the area, unlike Woody's and Hefty's Roadhouse. He is supportive of the new restaurant but would like all liquor consumption to end at 12:00 a.m.

Cliff Lewis, general manager of the Bayport Marina, stated he has been working with Dave and Gail Suddath on potential issues with the restaurant operation and is confident he can work with them to address concerns.

Joel Richert, 208 Mariner Way, president of the condominium association, stated the association is looking forward to the new establishment but does have concerns with potential noise issues associated with a 2:00 a.m. closing. He believes, however, the city has the necessary controls in place to ensure a successful operation and resolution of issues that may arise.

Discussion followed on approving the 2:00 a.m. closing license. Attorney Pratt noted this type of liquor license was not established until 2003, and Ms. Taylor indicated the previous tavern/restaurant (The Refuge) did not have a 2:00 a.m. liquor license. Mr. Suddath indicated he anticipates closing at 11:00 p.m. during the week and 12:00 a.m. on weekends; however to be successful he needs the flexibility of the 2:00 a.m. liquor license to accommodate special events and weddings. Attorney Pratt stated the city has the authority to regulate the hours of liquor sales and consumption; however it would have the burden of enforcing the liquor license hours if not consistent. Police Chief Eastman noted that city noise ordinances can be enforced after 10:00 p.m. and the department responds and tracks this type of nuisance.

The general consensus of the City Council was to give the new business owners a chance to begin operation with approval of all the liquor licenses applied for, encourage Mr. Suddath to keep the lines of communication open with the association and marina, and remind his staff of the city's noise concerns associated with a 2:00 a.m. closing.

It was moved by Councilmember Hanson and seconded by Councilmember Carlson to approve the issuance of an on-sale, Sunday, 2:00 a.m., and off-sale liquor license for David Suddath, Mallards LLC, doing business as "Mallards," for the proposed tavern/restaurant to be located at 101 5<sup>th</sup> Avenue South, subject to approval of AGE, completion of all building improvements to meet applicable code requirements, and correction of any health, safety, and welfare issues that the city deems necessary, to ensure the

establishment is fit for occupancy and service, for a license period to expire on December 31, 2013, with the requirement that the outdoor liquor consumption cease by 10:00 p.m., Sunday – Thursday and 12:00 a.m. on Friday and Saturday. Motion carried 5-0.

Consider right-of-way improvements to provide access to Lots 10, 11, and 12 of Block 109: Engineer Peters reviewed a request from Jeff Hause for a feasibility study to investigate the extension of utilities and access to serve an undeveloped property along Oakwood Street South, south of 6<sup>th</sup> Avenue South. City records indicate sewer and water are available to the property and there is no need for a feasibility study at this time. Due to the difficult topography in this area, he does not recommend that the city construct a publicly installed access, as it could be costly to construct and maintain since retaining walls and guard rails would be needed. As an alternative, the property owner has requested permission to install a private driveway within the narrow platted alley, and Engineer Peters recommended authorization for this request. He recommended the property owner be required to submit design plans to the city on how the driveway would be installed to make sure the steep slopes in the area are properly stabilized.

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to allow construction of a private driveway in the existing unimproved platted alley to access Block 109, Lots 10, 11, and 12, subject to approval of the design plans by the city engineer and fire and public works departments. Motion carried 5-0.

Consider authorization to prepare plans and specifications and to advertise for bids for the 2013 Sealcoating Improvement Project: Engineer Peters stated the city budgeted \$40,000.00 for a sealcoating project this year, and staff is requesting authorization for a project to sealcoat the streets on the referenced map. In 2012, Bayport combined their sealcoating project with the City of Lake St. Croix Beach and received better pricing, based on a larger scale of quantities. The Cities of Lake St. Croix Beach and St. Mary's Point are interested in a combined project this year and have already authorized their projects. If a combined project is approved, the cities would prepare separate bid packets, but combine the bidding on the same day, time and location. Bids would be received the second week of June and the project awarded at the July meeting. Staff recommends authorization to prepare plans and specifications and authorize bidding for the project. Councilmember Goldston commented on the savings realized last year with the combined project. Engineer Peters noted that in recent years the city significantly reduced its sealcoating efforts and suggested the City Council may want to consider increasing future budgets to get the streets sealcoated on a more regular basis.

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to authorize the preparation of plans and specifications and authorize bidding for the 2013 Sealcoating Improvement Project. Motion carried 5-0.

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

1. Councilmember Carlson requested the city work with the county to repair the potholes on the roadway adjacent to the correctional facility.
2. Councilmember Carlson inquired about determining setbacks for landscaping on corner lots. Acting Administrator Taylor stated residents should contact City Hall or Public Works for direction on how to address corner sightline issues.

#### **ADJOURNMENT**

It was moved by Councilmember McGann on and seconded by Councilmember Goldston to adjourn the meeting at 8:07 p.m. Motion carried 5-0.

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Acting City Administrator/Clerk