

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
MARCH 7, 2016  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of March 7, 2016 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: City Administrator Logan Martin, Police Chief Laura Eastman, Fire Chief Allen Eisinger, Public Works Supervisor Mel Horak, City Engineer John Parotti, City Attorney Andy Pratt, and Assistant City Administrator/Planner Sara Taylor

**APPROVAL OF AGENDA**

It was moved by Councilmember Goldston and seconded by Councilmember Carlson to approve the March 7, 2016 City Council agenda. Motion carried 5-0.

**PROCLAMATIONS/COMMENDATIONS/PETITIONS/ANNOUNCEMENTS**

1. The February recycling award recipients are David and Regina Madsen who will be awarded for their recycling efforts, with funding made possible by a grant from Washington County.
2. Mayor St. Ores thanked the First State Bank and Trust of Bayport for their ongoing donation of water for the Perro Park warming house during the skating season and at the Fire Hall.

**SWEARING IN OF POLICE OFFICER RILEY CAMERON**

Mayor St. Ores administered the Oath of Office to Riley Cameron, the Police Department's new part-time officer. Police Chief Eastman recognized Officer Cameron's previous work with the department as a Reserve Officer and Community Service Officer and welcomed him to the force.

**OPEN FORUM**

Mayor St. Ores asked City Administrator Martin and Attorney Pratt to provide an update on a situation discussed at last month's meeting related to a building permit application submitted by the property owners at 636 Minnesota Street South to construct a detached garage. Administrator Martin said city staff has spent a significant amount of time investigating and researching the issue and summarized the city's interpretation and analysis of the situation. He noted the application meets the city code requirements for the overall square footage of a garage on the property, and that the adjacent homeowners have appealed the height of the proposed garage (15 feet versus the standard 12 feet, as measured at the midpoint). Section 703.01 of city code allows the city administrator to approve an increase to a maximum of 17 feet for the purpose of matching the garage roof pitch or style of the accessory building to the existing home, provided the garage is not higher than the home. City staff has verified that the garage will be shorter than the home, will match the overall style of the house, and the roof pitch on the garage will match the roof pitch of the house. Therefore, city staff allowed a deviation in the height of the garage to the requested 15 feet. He noted city code does not regulate side wall

height, as long as the aforementioned standards are met, which is also a concern of the adjacent property owner. Examples of existing garages in Bayport constructed with the building height deviation were shown. Staff estimates that 80% of all garages built within the last 10 years in Bayport have used the height deviation standard, which allows the garage to be in style with the home and provides additional indoor storage for recreational vehicles that are common in the area. It was noted previous administrations and City Councils drafted the zoning ordinances to allow city staff to permit these types of deviation standards for an accessory building, rather than require a variance, since they are a common occurrence and generally not detrimental to a neighborhood. The building permit issued in October has been held up by the appeal process and the applicant is anxious to start construction.

Attorney Pratt said the city's response in denying the appeal raised by the adjacent homeowner is a legally defensible position and explained his conclusions. He reviewed correspondence from the adjacent homeowner that indicates the possibility of zoning litigation. He stated that zoning litigation actions typically consider the party's alleged injury, and staff has not identified a defensible injury in this matter. It is Attorney Pratt's legal opinion that the property owner has the right to construct the garage at this time, as conditions warrant. Administrator Martin added that building inspections will allow the city to verify the garage is being constructed as permitted, including all dimensions, color selection, and overall site maintenance standards during construction. Administration Martin summarized a letter from the homeowner at 636 Minnesota Street South that states the color of the garage will match that of the home and that he plans to abide by all city requirements regarding the construction process.

Councilmember McGann believes the city's review of the building permit and applicable code was thorough, resulted in a fair interpretation, and construction should be allowed to proceed. Councilmember Hanson noted that matching the roof pitch and style of the garage is a subjective matter and believes the city administrator was within his authority to deviate from the standard in this case. She does not perceive an injury to the adjacent homeowner if the garage is built as permitted and believes the building permit was issued as allowed by city code. Discussion followed on possible injury to the adjacent homeowners, including impact on their river view. Attorney Pratt said there is no legal precedent to claim an injury due to loss of a scenic view. Councilmembers noted that staff has spent a considerable amount of time and resources addressing the concerns raised by the adjoining property owners and concur with staff's legal opinion that the building permit is legal.

Tara Johnson, 620 Oakwood Street South, noted that the city required new building plans and a reduction in the height of the proposed garage at 636 Minnesota Street South after she brought the height deviation to the city's attention. She believes allowing a height deviation of 15 feet at the midpoint still violates the city ordinance that allows for a 12-foot midpoint maximum height. She said the garage could be built without a height deviation and still match the garage roof pitch and style to the home. She also believes the proposed garage style does not match that of the home. She said her purpose tonight was to inquire how the City Council interprets the ordinance and whether they agree with staff's interpretation. Based on the previous comments, she understands the City Council's position and thanked the councilmembers for their time on this issue.

Eric Johnson, 620 Oakwood Street South, believes the garage height deviation process should be reviewed and recommended revising the city's zoning ordinance to clarify any vague and subjective language.

## **CONSENT AGENDA**

Mayor St. Ores read items 1-10 on the consent agenda.

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 16-03**

**RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-10 FROM THE  
MARCH 7, 2016 CITY COUNCIL AGENDA**

1. February 1, 2016 City Council regular meeting minutes
2. February payables and receipts (check numbers 006781-006913)
3. February building, plumbing and mechanical permits report
4. Renewal of boat trailer parking agreement with Andersen Corporation for 2016
5. Waiver of statutory tort liability limits for city insurance coverage
6. Hiring of Riley Cameron as a part-time police officer and PERA declaration (*Resolution 16-03A*)
7. Pay application #9 from Kraus Anderson and subcontractors for Fire Hall construction
8. Special event application from Victoria McKinney for wedding at Lakeside Park on Friday, September 23, 2016
9. Special event applications from Bayport Community Action League for 2016 events
10. Special event application from Bayport Community Action League for a craft fair at Village Green Park on Saturday, June 4, 2016 (new event)

The motion for adopting the foregoing resolution was duly seconded by Councilmember Hanson 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**

**UNFINISHED BUSINESS**

Consider concept parking lot plan and provide authorization to prepare bidding documents for project at 169 3<sup>rd</sup> Street North: Administrator Martin said staff vetted two concepts for creating a municipal parking lot at 169 3<sup>rd</sup> Street North. The Minnesota Department of Transportation (MnDOT) reviewed both concepts and will allow two access points, which will facilitate a one-way loop through the property. The two concepts were reviewed. Option A, utilizing angle parking, is not recommended per the city engineer because the drive aisles are narrow and the parking spaces small to accommodate larger vehicles. Staff believes that Option B, utilizing straight-in, 90 degree parking, is the most effective and feasible design, with a few modifications. In order to benefit from the favorable spring bidding season, staff is requesting authorization tonight to prepare the project bidding documents, with solicitation of the bids authorized in April and the bid awarded in May. The project, including the land acquisition, is funded by approximately \$380,000 in Tax Increment Financing (TIF) funds, and the city anticipates using the entire amount before the TIF funds expire at the end of the year.

Engineer Parotti said staff considered many standards when analyzing the recommended option, including those of the Middle St. Croix Watershed Management Organization (MSCWMO) regarding stormwater management, and city ordinances related to landscaping requirements and screening from adjacent residential properties. In order to comply with the requirements placed on the project, he said the 22-stall parking lot (Option B) will have tight dimensions and parking larger vehicles may present maneuverability challenges. Councilmember Hanson suggested increasing the size of the parking spaces for ease of maneuverability, even though it would decrease the number of proposed parking spaces. Engineer Parotti said the proposed 18-foot parking space depth and 18-foot drive aisle width meets city code. However there is insufficient space to accommodate the recommended 22-foot drive aisle width and meet the landscaping and stormwater requirements. Councilmember Hanson expressed concern that landscaping features may pose a personal safety issue by obscuring sight lines in the lot, as well as

making snowplowing difficult. Administrator Martin noted there will be a calculated amount of green space required, based on the amount of impervious surface in the lot. He anticipates Woody's Bar and Grill staff/patrons to continue sharing the access points off Highway 95, to access their parking area. The city will encourage Woody's property owner to repave his parking area when the new lot is constructed and realize cost savings by ordering larger quantities of asphalt.

Councilmembers discussed the merits of both concepts, with modifications, and directed staff to explore different options that would provide the maximum number of parking stalls, adhere to the MSCWMO and city ordinance requirements, and consider parking and maneuverability of larger vehicles. Further discussion was continued to the April meeting.

## **NEW BUSINESS**

### **COUNCIL LIAISON REPORTS**

Councilmember Carlson said the Library Board changed their meeting day to the third Tuesday of each month, 6:00 p.m., at the library.

Councilmember Goldston attended the February 11, 2016 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). He will be sharing background information on the organization and its current projects at a future meeting.

Councilmember Hanson reported on the Central St. Croix Valley Joint Cable Commission's process to hire a replacement for Office Administrator Kathy Cinnamon who will be retiring March 15. Two candidates have been selected for final consideration. New officers were elected as follows: Mark Swenson, Chair; Rachel Crary, Vice-chair; and Michele Hanson, Treasurer. The commission hopes to have a franchise agreement with Comcast finalized in the near future.

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

Fire Chief Eisinger reported on the department's successful move to the new Fire Hall on March 3, and staff hopes to be fully vacated from the former hall by the end of the month. A public open house is being coordinated for later this spring. He said the first service call came within three hours of the move and the building and its functions are working well. February's call volume was 88, which included three structures fires in Bayport's service area, assistance to two other departments for structure fires and response to a vehicular fatality. Chief Eisinger said the West Lakeland Township board is aware of the dangerous intersection at Highway 95 and 22<sup>nd</sup> Avenue and has been in contact with MnDOT about making the intersection safer. Monthly training and meetings were reviewed and he reported the annual fundraising dance was successful. A special effort at the dance raised \$2,000 for Fireman Mike Bell who is recovering from extensive surgery. Residents were reminded to check their electrical appliances and cords for signs of damage; electrical issues have been the main cause of recent fires. A properly working electrical cord should never feel warm to the touch.

Police Chief Eastman reviewed her written report and the hiring process for our new part-time officer. She noted Reserve Officers will be on duty at the Easter Egg Hunt on March 26 at Barker's Alps Park.

Public Works Supervisor Horak reviewed his written report and reminded residents there are free test strips available at City Hall if they suspect they may have a leaking toilet.

Assistant City Administrator/Planner reported the next edition of the city newsletter will be distributed in the next few weeks. She recently attended a workshop sponsored by the St. Croix River Association that focused on urban forestry topics, including emerald ash borer, and said she would be working with

Public Works Supervisor Horak to update the city's ordinances and best management practices. She is also working on updating city ordinances to incorporate the MSCWMO's new stormwater requirements, and a joint City Council/Planning Commission workshop to review the draft ordinances is tentatively scheduled for May. She is in the process of completing the Washington County Recycling Grant Annual Report and reported the city's recycling efforts are working well. Upcoming city events were reviewed. Residents interested in participating in the June 3-4 citywide garage sale can contact City Hall to sign up.

Administrator Martin reported the city's annual audit went well last week with no major issues identified. The audit findings will be presented at an upcoming meeting. Staff has recently been working with Republic Services on a discrepancy with the fee charged for their annual yard waste program. Some residents were not charged the gradual annual increase defined in the contract until the issue was identified and corrected this year. As a result, certain residents saw a significant increase in the yard waste service portion of their bill. Residents may contact City Hall if they were affected by this issue, and Republic Services will then work with them on their accounts. City staff continues to vet the opportunity to participate in a community solar panel garden venture with the Metropolitan Council.

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

1. Mayor St. Ores reminded residents of the importance of cleaning up yard waste to prevent it from getting into our waterways.
2. Councilmember Carlson said the Bayport American Legion is planning a fundraising spaghetti dinner for Fireman Mike Bell in April. She will inform City Hall of the exact date and time.

### **ADJOURNMENT**

It was moved by Councilmember Hanson and seconded by Councilmember Hanson to adjourn the meeting at 8:16 p.m. Motion carried 5-0.

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City Administrator/Clerk