

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
SEPTEMBER 3, 2013
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of September 3, 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: City Administrator Logan Martin, Police Chief Laura Eastman, Public Works Supervisor Mel Horak, City Engineer Barry Peters, City Attorney Andy Pratt, Fire Chief Mark Swenson, and Assistant City Administrator/Planner Sara Taylor

APPROVAL OF AGENDA

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to approve the September 3, 2013 City Council agenda. Motion carried 5-0.

PROCLAMATIONS/COMMENDATIONS/PETITIONS/ANNOUNCEMENTS

1. The August recycling award recipient is Michael Branch who will receive \$30.00 for his recycling efforts, with funding made possible by a grant from Washington County.

OPEN FORUM – None

CONSENT AGENDA

Mayor St. Ores read items 1-5 on the consent agenda.

Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 13-15

**RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-5 FROM THE
SEPTEMBER 3, 2013 CITY COUNCIL AGENDA**

1. July 31, 2013 City Council workshop minutes
2. August 5, 2013 City Council regular meeting minutes
3. August payables and receipts (check numbers 1136171-1136265)
4. August building, plumbing and mechanical permits report
5. Police Department donations for Night to Unite and Youth Safety Camp

The motion for adopting the foregoing resolution was duly seconded by Councilmember Carlson 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 Carlson reviewed the August 29, 2013 meeting of the Library Board. The youth summer programs were well received and will be expanded next year. The library will be holding a book sale at the library on September 21, 9:00 a.m.-2:00 p.m., in conjunction with Derby Days. The next meeting is scheduled for September 26, 2013 at the library.

Councilmember Hanson reviewed the August 21, 2013 meeting of the Central St. Croix Valley Joint Cable Communications Commission, noting the audit report was presented with no significant findings. Staff is designing a new space for relocation of the Valley Access Channels Studio and commission office to another area within the Valley Ridge Mall. She reported the commission would be cost sharing attorney representation with the Lower Valley Commission for the franchise renewal negotiations.

Mayor St. Ores attended the Middle St. Croix Watershed Management Organization meeting and reported the group is working on their master plan. She also participated in a Minnesota Department of Transportation (MnDOT) tour of the new bridge construction activity. She reviewed the schedule for the combined annual Derby Days event and 125th Fire Department anniversary celebration on Saturday, September 21 and encouraged residents to check out the many activities.

STAFF/CITY ADMINISTRATOR REPORTS

Police Chief Eastman reviewed the department's monthly activity and acknowledged the many businesses and individuals who donated goods and time for the successful Youth Safety Camp and Night to Unite events. On September 25, Chief Eastman and Fire Chief Swenson will be presenting at the Senior Center. She reported an increase in speed warnings and citations, especially on 5th Avenue North, with traffic being rerouted through Bayport due to the bridge project. Administrator Logan added that MnDOT is exploring alternate options for rerouting traffic from Highway 36 to Highway 95, to help reduce the amount of traffic through Bayport, noting concerns with pedestrian safety near Andersen Elementary School.

Fire Chief Swenson reported department staff has been working with MnDOT and contractors on road closures and detours to ensure public safety and response time. Administrator Martin and Chief Swenson had a positive meeting with the Commissioner of Corrections about acquiring land for a new fire station and expect a response from the commissioner in the near future. Ames Construction and Lowe's recently donated equipment and supplies to the department and the donations will be formally accepted at the next meeting. Staff is working with the Lake Elmo Fire Department on an auto aid procedure in the event of a confirmed structure fire, whereby both departments would be called out at the same time.

Public Works Supervisor Horak reviewed his written report and asked that residents help water boulevard trees during this dry period. He noted Public Works is starting the process to contract for sewer cleaning this fall and there is money in the budget for this contracted work. He is also working on a soil correction project in the west portion of Hazelwood Cemetery to remove and replace unstable soil. Pictures of the newly installed boarding dock at the 4th Avenue North boat launch were displayed, and Mayor St. Ores noted boats may be tied temporarily to the dock for up to 15 minutes to allow time to park boat trailers.

Assistant City Administrator/Planner Taylor reviewed her written report, noting there will be a general election on November 5 to vote on a levy increase for the school district. Bayport residents vote at City Hall, with polls open from 7:00 a.m. to 8:00 p.m. The next issue of the city newsletter will be distributed soon, and residents were encouraged to participate in the second annual Focus on Bayport photo contest, with entries due October 15.

Administrator Martin stated his focus since the last meeting has been on preparing the 2014 budget and working on the preliminary plat application for Inspiration.

UNFINISHED BUSINESS – None

NEW BUSINESS

Consider a proposed Eagle Scout project for Barker’s Alps Park: Bryan Rettner, a scout with Bayport Troop 113, reviewed his proposed Eagle Scout service project to build a wooden informational kiosk near the playground at the top of Barker’s Alps Park. The double-sided kiosk would display a map of the Barker’s Alps trail system and park history on one side, with a map of Barker’s Alps and the Inspiration neighborhood trails on the other side. He stated the majority of the materials would be funded through donations; however, he requested \$710.00 from the city to cover the remaining construction materials. Councilmember Hanson inquired when the trail system maps would be added, and Bryan indicated the entire project would be completed this fall. Councilmember Hanson requested that city staff approve the written materials prior to placement in the kiosk.

It was moved by Councilmember Hanson and seconded by Councilmember Goldston to approve the Eagle Scout Project proposed by Bryan Rettner to build an informational kiosk at the top of Barker’s Alps Park, with the city reimbursing up to \$710.00 for construction costs. Motion carried 5-0.

Consider a preliminary plat for Phase III-B of the Inspiration development: Mayor St. Ores stated staff would summarize the discussions and actions to date, followed by a public comment segment and City Council discussion. Planning Consultant Dan Licht reviewed his written report. Bayport Mainstreet Holding, LLC, the current property owner, has entered into a purchase agreement with DR Horton, Inc., for the sale and development of the northwest portion of Inspiration. DR Horton’s proposed changes to the 2004 approved site plan, that would reduce the number of approved lots from 116 to 109 and increase open space by 0.68 acres, were reviewed in detail. He reviewed the June 10 and July 22 Planning Commission meetings, noting there was considerable discussion on the architectural elements that were included as part of the original approvals in 2004. The original documents state that the architectural elements/guidelines were to be deferred to the Master Declarations as a function of the Homeowner’s Association (HOA) and administered through an Architectural Review Committee (ARC), separate from any city involvement. He noted that DR Horton met with Inspiration residents following the June 10 Planning Commission meeting to address concerns raised at the public hearing and subsequently submitted changes to the architectural and landscaping requirements, agreed to resident involvement in the ARC process and revised the overall site plan for the development. The proposed changes to lot sizes and setbacks were reviewed, and it was noted Washington County is requiring that the new intersection at Inspiration Parkway North and Stagecoach Trail prohibit a left turn from the development to southbound Stagecoach Trail. Planner Licht stated that the architectural and HOA/ARC membership elements will be included in the Planned Unit Development (PUD) general development permit approval and enforceable by the city, which is a change from the original approvals. He said that DR Horton would sell Outlot M to the city for \$1.00, upon Phase III-B final plat approval by the city. On July 22, 2013, the Planning Commission recommended approval of the preliminary plat application, with staff’s conditions of approval and four additional conditions. Planner Licht reviewed the 21 conditions of approval included in the resolution and noted the Planning Commission’s conditions related to architectural requirements and design guidelines were not included because the ambiguous language was subjective and not enforceable. City staff recommended approval of the proposed PUD general development plan and preliminary plat application.

Attorney Pratt reviewed the legal requirements and obligations of the city in regards to the preliminary plat application, as well as the liability concerns associated with the city’s deliberation.

He reviewed the options the City Council could take regarding this application, noting that state law, the city's zoning ordinance and comprehensive plan serve as the guiding documents for approval or denial of the application.

Planning Commission Chairperson Jason Obler was invited to address the City Council and present the recommendation made by the Planning Commission at the July 22 meeting. He noted that although the Planning Commission voted to approve the application, he urged the City Council to consider denial of the application because the recommendations cited by staff are based on incomplete information, there is a lack of compromise on several issues by DR Horton, the proposal does not meet all the conditions of the original PUD application and permit, does not comply with city code, and is not consistent with the comprehensive plan. Commissioner Obler detailed the reasoning behind his denial request and said the application is incomplete because it is missing the financial impact, marketing, landscape plan, subdivision and social and environmental components, as required by city ordinance. He stated that he believes a majority of Planning Commission members share his viewpoint and Commissioner Hallett voiced his agreement. Mayor St. Ores stated she has received conflicting information from individual commissioners and wanted to be sure the entire Planning Commission is represented as a whole. Commissioner Obler noted a motion was passed at the June 10 Planning Commission meeting to deny the application; however, it was withdrawn to allow staff time to work with the developer on reaching a compromise on the issues brought forth at the public hearing. Attorney Pratt reminded councilmembers that the conditions of approval should be not arbitrary or capricious and stated that staff worked extensively with DR Horton to make the 21 conditions finite and enforceable. He also reiterated that on July 22, the Planning Commission recommended approval of the application with conditions. Administrator Martin and Mayor St. Ores pointed out that DR Horton or another builder could choose to build out the remaining lots in Phase III following the 2004 original approvals; however with the revised plat application, the city has an opportunity to codify additional requirements that will enhance the original intent of the neighborhood.

Ron Mullenbach of DR Horton stated he has received positive comments about the revised plan and that his company had worked with the city to address staff and resident concerns and made special allowances regarding architectural guidelines.

Patrick McNeil, 921 Inspiration Parkway, expressed concerns that the rear elevations of some new homes would face Stagecoach Trail and about DR Horton's ability to remove residents from the ARC. He is not opposed to DR Horton as a builder but believes they need to make more changes. He also thanked DR Horton and the Bayport Fire and Police Departments for participating in the Inspiration neighborhood party last month.

Jennifer Schneider, 1 Lakeside Drive, noted she was the Planning Commission Chairperson when the original plan approvals were prepared and stated that the city worked very hard to create a development that met the goals of the city's comprehensive plan and was acceptable to Bayport as a whole. She believes there are standards from the original plan that are not being upheld and important components in the revised plan that are missing, e.g., the marketing component. She disagrees with staff's findings of fact for approval of this application and believes they do not meet the goals of the comprehensive plan. She would like to keep the alleys in the plan to encourage slower traffic patterns. She recommended the City Council consider denial of the application.

Cara Richter, 329 Periwinkle Place, was unhappy that the original concept of promoting a small town feel, with an emphasis on native plants, conservation and a variety of homes is not being adhered to and stated these elements were the reason she agreed to live within an HOA setting. She said the

alleys provide a safe environment for outdoor play and has concerns with traffic speed in the neighborhood. She dislikes the “beige box” style of homes being built and proposed by DR Horton.

Ben Lee, 908 Inspiration Parkway, stated there has been a breakdown in design guidelines and expressed concern that a similar style/color home was built near his home.

Gina Hennen, 993 Inspiration Parkway, stated that the open space, alleys and resident input concepts promoted by DR Horton influenced their decision to purchase a home from DR Horton four months ago. She believes the current plan does not promote the same sense of neighborhood and had concerns with a lack of say on the HOA Board/ARC. She would like to see custom homes in the development.

Dustin Vincent, 526 Prairie Way South, questioned whether there was any resident support for the proposed plan and requested the City Council do what is right for the community.

Jon Nowaczek, Woodbury, Minnesota, was a former councilmember and noted the original development plan was carefully constructed and worked well for many years. He encouraged councilmembers to take a holistic approach in deciding whether to approve deviations from the original plan.

Rick Schneider, 1 Lakeside Drive, was a former Mayor and indicated he served at the time Inspiration was originally approved and noted the hard work that went into the process. He stated he was opposed to approving the proposed application.

Jeff Todd, 467 Prairie Way South, believes the original standards for the development have decreased since inception and stated that Inspiration residents have realized an increased downturn in the value of their homes due to the downgrading of the standards and original concept. He challenged DR Horton’s position that the proposed plan is necessary because of the housing market and cited the development of custom-built homes in neighboring Baytown Township. He encouraged the City Council to uphold the original standards at a high level and stated that decreased property values in Inspiration could affect the tax base for the entire city.

Penny Samb, 1138 Pioneer Trail, noted that when her Rottlund home was built five years ago, the builder provided several choices of house color, style and lot style and stated that similar house styles and colors were restricted. She said the original look and feel of Inspiration is gone and would like it back.

Lisa Eldred, 1005 Planter’s Path, and Jeff Todd stated the downgrading of homes began when the Beard Group took over from the original developer in 2008 during the housing market downturn. She indicated a group of Inspiration residents sought legal counsel and addressed their concerns with former City Administrator Berg. The group felt they were powerless to affect any change and were intimidated by Beard Group representatives.

Administrator Martin reiterated that the proposed conditions of approval will codify specified standards for the revised plan, which will allow for enforcement of the standards going forward. Discussion followed on the developer’s ability to remove a resident from the ARC. Mr. Mullenbach explained that due to the original documents in place, the former and current developers have had exclusive control of the HOA Board and ARC, but DR Horton has offered to seat two Inspiration residents on the ARC immediately upon final approval of the plan. He indicated that DR Horton would consider building homes on lots along Prairie Way that already have the infrastructure in place, if the proposed application is denied. He acknowledged the concern residents have with the

backside of homes facing Stagecoach Trail and said the builder could provide additional architectural relief for those homes to make the view from Stagecoach Trail more pleasing. He questioned whether the current alley loaded system is working, noting the city has been maintaining the alleys to this point, although the governing documents for the development state it is an HOA responsibility. Discussion followed on whether the proposed application includes all the required information for a PUD permit. Planner Licht said staff reviewed the application to determine whether it was complete based on requirements of the subdivision and zoning ordinances and the application is complete. He explained why the financial component was not required and reviewed how the plan addresses the landscaping, marketing and conservation elements. Councilmembers noted the complexity of the decision before them and indicated they have also received positive feedback from residents on the proposed plan and DR Horton compromises. Attorney Pratt stated the application is guided correctly under the comprehensive plan and zoning ordinances. If the city denies the application, valid findings for the denial must be cited or the action could be challenged. Administrator Martin acknowledged the current residents' concern that they have lost control of the neighborhood and noted Inspiration residents will have input on the ARC with this approval. He stated staff has been working diligently to find a solution to homeowner concerns and the 21 conditions of approval, which include architectural requirements, would be enforceable. Councilmember Hanson requested that condition #3 be amended to state that colors would be retired once used on 18% of the overall site, not phase. It was suggested that city staff be given the opportunity to attend ARC meetings to participate in the process, and Mr. Mullenbach indicated most ARC approvals are done via email to ensure a quick turnaround.

Councilmember Hanson introduced the following resolution, revising condition #3 to state that colors will be retired and replaced once used on 18% of the overall site, and adding condition #22 that city staff will be included in ARC communication.

**RESOLUTION APPROVING A REVISED PUD GENERAL PLAN AND PRELIMINARY PLAT
FOR PHASE III-B OF THE INSPIRATION DEVELOPMENT, CITY OF BAYPORT,
WASHINGTON COUNTY, MINNESOTA**

The motion was withdrawn, due to lack of a second.

Discussion continued on the pros and cons of approving the application, the basis for denying the application, the desire to do what's best for all Bayport constituents, and following through with the original intent and design of the development. Administrator Martin recommended the City Council either proceed with a resolution for denial or request a two-week extension from DR Horton and consider the application at a special meeting on September 16, if councilmembers believe a positive recommendation could be achieved during the extension period. Mr. Mullenbach said his company would not be able to price out alley-loaded home designs in two weeks, nor does DR Horton have this home in any other marketplace. Planner Licht reviewed the resolution for denial that was distributed to the City Council and stated the city would need to provide a written copy of any action to the applicant by the September 13 deadline. Attorney Pratt stated that he would refine the findings for denial prior to signature to capture the discussion related to the proposed layout of the overall development not being consistent with the original plan.

It was moved by Councilmember Carlson and seconded by Councilmember McGann to deny a revised PUD general plan and preliminary plat for Phase III-B of the Inspiration development, City of Bayport, Washington County, Minnesota, noting staff would revise the draft resolution for formal adoption at the end of the agenda. Motion carried 3-2, with Councilmembers Goldston and Hanson voting nay.

A brief recess was taken and the meeting resumed at 11:15 p.m.

Consider bids for a new hockey rink system at Perro Park: Assistant City Administrator Taylor explained the project was bid in three categories, including site improvements, hockey boards/fencing and lighting, as well as alternates for optional side fencing and 3/8" hockey boards. The bids received on August 15 were higher than estimated primarily due to unexpected electrical work and new fixtures. A recent inspection of the existing electrical system showed that the system doesn't comply with current code and is a potential fire and safety hazard. Replacing the existing fixtures now will reduce the number needed from six to two because the new fixtures are 50% more efficient in light output. Staff recommended awarding the site improvements to Fitol Hinz; 1/4" hockey boards and optional side fencing to Rink Systems, and the lighting fixtures, with warranty, to Musco. The total for the recommended improvements is \$199,455.00; however the city received a \$97,500.00 grant for the hockey rink. The remaining costs would be funded by the recreational capital equipment fund and park dedication fund. Greg Johnson, Sanders Wacker Bergly/Loucks Associates, explained the hockey rink system and shared a photograph of a similar rink in Oakdale. The Public Works department and Andersen Elementary School personnel recommended the optional side fencing, which would add a 6 foot chain link fence around the rink. Assistant Administrator Taylor stated there wasn't a specific turf improvement component in the project budget.

It was moved by Councilmember Carlson and seconded by Councilmember McGann to award the bid for the hockey rink system site improvements to Fitol Hinz for \$81,250.00; hockey boards (1/4 inch) for \$67,400.00, plus optional side fencing for \$5,000.00 to Rink Systems; and lighting fixtures to Musco for \$40,910.00, with an optional warranty for \$4,885.00, to be funded by the recreational capital equipment fund and park dedication fund. Motion carried 5-0.

2014 Budget Presentation: Administrator Martin reviewed the proposed 2014 budget, levy and capital improvement plan. He noted the city's financial standing is strong, with the assessed value of city property projected to rise 11.5% in 2014. A budget of \$2,738,433.00 is proposed, which is an 11% decrease from last year. The general fund budget was detailed and specific department accomplishments were reviewed. He noted that due to conservative budgeting and increased outside revenue sources, the general fund levy remains nearly flat for 2014, increasing by \$3,200.00. The proposed property tax rate shows an overall 2.14% decrease in the city's tax rate.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 13-17

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ESTABLISHING THE PRELIMINARY LEVY CERTIFICATION FOR THE CITY'S GENERAL
FUND AND LIBRARY FUND AT \$1,163,252.64**

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	Dan Goldston – aye	Patrick McGann – aye
Connie Carlson – aye	Michele Hanson – aye	

Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 13-18

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING THE PRELIMINARY CITY BUDGET FOR 2014**

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

Susan St. Ores – aye Dan Goldston – aye Patrick McGann – aye
Connie Carlson – aye Michele Hanson – aye

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 13-19

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING THE PRELIMINARY CAPITAL IMPROVEMENT PLAN FOR 2014**

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 Dan Goldston – aye Patrick McGann – aye
Connie Carlson – aye Michele Hanson – aye

Mayor St. Ores stated that public input on the 2014 budget and levy will be heard at the December 2, 2013 City Council meeting.

CITY COUNCIL ITEMS AND ANNOUNCEMENTS

1. Councilmember Hanson thanked the many donors who helped with Safety Camp and Night to Unite, as well as Lowe’s for donating equipment to the Fire Department.
2. Mayor St. Ores and Councilmembers Carlson and Hanson participated in the inaugural 5K race in memory of former firefighter and Councilmember Mark Ostertag.

Consider a preliminary plat for Phase III-B of the Inspiration development (continued): Planner Licht explained that the resolution for denial of the Inspiration application had been revised, and state statute requires that the City Council review the document so it can be provided in writing to the applicant prior to the expiration of the 60-day deadline.

It was moved by Councilmember Hanson and seconded by Councilmember Carlson to amend the September 3, 2013 City Council agenda to consider the revised resolution denying a preliminary plat and PUD general plan for Phase III-B of the Inspiration development. Motion carried 5-0.

Attorney Pratt summarized the revised language and the City Council reviewed the resolution.

It was moved by Councilmember Carlson and seconded by Councilmember McGann to accept the revised language in the resolution denying the preliminary plat and PUD general plan for Phase III-B of the Inspiration development. Motion carried 5-0.

The formal resolution was recorded as follows:

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 13-16

**RESOLUTION DENYING A REVISED PUD GENERAL PLAN AND PRELIMINARY PLAT
FOR PHASE III-B OF THE INSPIRATION DEVELOPMENT, CITY OF BAYPORT,
WASHINGTON COUNTY, MINNESOTA**

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

Susan St. Ores – aye
Connie Carlson – aye

Dan Goldston – nay
Michele Hanson – nay

Patrick McGann – aye

ADJOURNMENT

It was moved by Councilmember Hanson and seconded by Councilmember Carlson to adjourn the meeting at 11:39 p.m. Motion carried 5-0.

City Administrator/Clerk