

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
SEPTEMBER 6, 2011
6:00 P.M.**

CALL TO ORDER

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of September 6, 2011 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 Mark Ostertag

Members Absent: None

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

APPROVAL OF AGENDA

Councilmember Hanson noted that the agenda item for City Council items and announcements was not listed and requested its addition, prior to City Administrator items and announcements.

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to approve the September 6, 2011 agenda, with the addition noted above. Motion carried 5-0.

PROCLAMATIONS/COMMENDATIONS/PETITIONS

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

OPEN FORUM – None

CONSENT AGENDA

Mayor St. Ores read items 1-15 on the consent agenda.

Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 11-27

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
APPROVING CONSENT AGENDA ITEMS 1-15 FROM THE
SEPTEMBER 6, 2011 CITY COUNCIL AGENDA**

1. August 1, 2011 City Council regular meeting minutes
2. August 8, 2011 City Council workshop minutes
3. August 15, 2011 City Council workshop minutes
4. August payables and receipts (check numbers 1133536-1133651)
5. August building, plumbing and mechanical permit report
6. Temporary on-sale liquor license for Bayport Marina on September 17, 2011
7. Safety grant agreement with OSHA to install a security system at City Hall/Police Department
8. Donations for safety camp and Night to Unite
9. Addendum to Communications System Subscriber Agreement for 800 MHz public safety radio system

10. Special event application for St. Charles Church Octoberfest fundraiser on Saturday, October 8, 2011
11. Temporary on-sale liquor license for St. Charles Church on Saturday, October 8, 2011
12. Ordinance summary of Chapter 22 – Cigarettes and Tobacco, Article IV. for publication
13. Special event application for motorcycle film project at Lakeside Park on Wednesday, September 14, 2011
14. Accept a portable outfield fence for Barker’s Alps Park and funding to construct a seasonal storage area donated by St. Croix Preparatory Academy
15. Purchase used audio mixers for City Council chambers audio/video system

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	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

PUBLIC HEARINGS

Public improvement hearing on the 2011 Sidewalk Improvement Project located on 6th Street North:

Administrator Berg outlined the public hearing procedure and invited City of Stillwater Engineer Kraftson to review the improvements, costs and preliminary assessment roll. Engineer Kraftson noted that past sidewalk projects have utilized an assessment method based on the linear feet of sidewalk being replaced adjacent to a property, versus a per unit method. He stated city staff is recommending revisions to the city’s assessment policy for this project’s assessments, due to the unique circumstances with some of the parcels involved. He reviewed the unique circumstances for assessing a triangular parcel at 868 6th Street North and recommended that an adjusted footage for the parcel be based on the lot width at the midpoint of the lot. He also reviewed a deferred assessment option for vacant lots owned by Robert and Doris Hayner that appear unlikely to be improved due to steep slopes. The preliminary assessment roll was reviewed, with assessments ranging from \$982.38 to \$2,108.02, with a total assessment of \$17,375.85. The preliminary assessments are 42% of the total estimated project cost. He explained the city would be responsible for 100% of two dedicated right-of-way areas, and the city would pay for the adjusted footage assessment for the triangular lot, bringing the city’s share to 58% of the costs. Engineer Kraftson reviewed Roettger Welding’s quote of \$6,250.00, which was nearly half the previous bid, to replace 131 feet of new two-pipe railing in front of 741 and 775 6th Street North, and will meet current railing standards. The revised proposed construction cost is \$32,006.25, with the total project at \$41,546.50 (including engineering and administrative costs).

It was moved by Councilmember Carlson and seconded by Councilmember Goldston to accept Roettger Welding’s quote of \$6,250.00 to replace the sidewalk in front of 741 and 775 6th Street North. Motion carried 5-0.

Mayor St. Ores opened the public hearing and the following were heard:

Scott Shurson, 785 6th Street North, expressed concerns with the hours of construction and parking issues and questioned how the railing costs would be assessed. He also requested information on the process for paying his assessment.

It was noted the City of Bayport’s noise ordinance allows weekday construction between 7:00 a.m.-8:00 p.m., and Administrator Berg indicated the contractors would be asked to be mindful of Mr. Shurson’s noise concerns. Engineer Kraftson noted the three contractors would be onsite approximately five working days, at different times throughout the three week construction period. Property owners would

need to make alternative parking plans if their driveways cross the sidewalk, as the concrete needs to cure for five days. Engineer Kraftson stated that all project costs, including the railing, would be split and assessed against all 13 parcels. Administrator Berg reviewed the city's assessment policy, noting the assessment can be prepaid fully by November 15, 2011 (to avoid interest), or the full and/or partial assessment can be paid over a 10 year period at a 4.25% interest rate.

It was moved by Councilmember Hanson and seconded by Councilmember Ostertag to close the public hearing. Motion carried 5-0.

Engineer Kraftson estimated the sidewalk is approximately 40 years old and the majority is in need of repair. Administrator Berg noted the final assessment roll would be prepared for the October 3, 2011 City Council meeting, at which time payment options would be detailed. Engineer Kraftson clarified the city would carry the cost of sidewalk improvements for any deferred assessment, as proposed in a revised city assessment policy to be considered later in the meeting. Attorney Vivian reviewed the parameters for a special assessment as it related to the vacant lots, noting the city must show a benefit to the assessed property equal to the improvement cost. Discussion followed on the proposed deferment option, and Administrator Berg stated the City Council would have the ultimate say if there were to be any deferment requests granted. Councilmember Ostertag questioned whether the city had considered an assessment method that would split the costs equally among the property owners, especially the cost for the railing. Engineer Kraftson noted the railing would not necessarily directly benefit the adjacent property owners and was being rehabbed for public safety purposes. Staff noted that if the city used the current per unit assessment method, versus the proposed assessment methods, it would be challenged to show a fair and equitable assessment approach, in accordance with the Chapter 429 process.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 11-28

**RESOLUTION ORDERING IMPROVEMENTS, DECLARING COSTS TO BE ASSESSED,
AND ORDERING PREPARATION OF THE FINAL ASSESSMENT ROLL FOR THE
6th STREET NORTH SIDEWALK IMPROVEMENT PROJECT**

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	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 11-29

**RESOLUTION FOR HEARING ON PROPOSED ASSESSMENT FOR THE
6th STREET NORTH SIDEWALK 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:

Susan St. Ores – aye	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

RIVERFRONT ADVISORY COMMISSION REPORT

Administrator Berg provided an update of action since the last meeting and summarized the five high priority 2-5 year goals and staff recommendations. Councilmembers discussed postponing action on

adding trails until next year when staff should have a better idea of the timeline and impact of the proposed St. Croix River bridge. The general consensus was to defer further discussion on ordering a master trail plan for 4-6 months, at which time the city should have a better understanding of how a new bridge would affect trail connections to surrounding communities. City of Stillwater Engineer Kraftson recommended investigating a joint study with Washington County. Councilmember Hanson recommended adding the beach house venue to online search engines, to increase reservation opportunities.

COUNCIL LIAISON REPORTS

Councilmember Hanson reviewed the August 22, 2011 Planning Commission meeting. Jason Obler was sworn in as a new commissioner, and Pam Hoyer was elected as the new chairperson and David Levy was elected as vice chairperson. The Planning Commission recommended approval of the conditional use permit application for the tavern/restaurant at 193 3rd Street North.

Councilmember Goldston reviewed the August 31, 2011 meeting of the Lower St. Croix Partnership. He noted the next meeting is scheduled for November 30, 2011, 7:00 p.m., at the St. Croix County Government Center.

Mayor St. Ores reviewed the August 11, 2011 meeting of the Middle St. Croix Watershed Management Organization (MSCWMO). The 2012 budget was approved and the MSCWMO received a high performance rating from the Board of Water and Soil Resources. The next meeting is scheduled for Thursday, October 13, 2011, 7:00 p.m., at the Valley Ridge Mall.

Councilmember Carlson reviewed the August 25, 2011 Library Board meeting, noting the summer programs were well attended, including the new Thursday afternoon movies. The next meeting is scheduled for Thursday, September 22, 2011, 6:00 p.m., at the library.

Councilmember Ostertag had no report on the Cable Commission.

UNFINISHED BUSINESS

Consider declaring costs to be assessed and ordering preparation of the assessment roll for the 1st and 2nd Avenue North Stormwater Improvement Project: Administrator Berg explained a public assessment hearing is not required for the project because 100% of the property owners for both projects have signed petitions waiving their rights to this part of the Chapter 429 process. He stated the original construction costs were estimated at \$38,251.00; however the final cost of the improvements is \$41,517.00. The city's portion is \$25,565.00, with \$15,952.00 assessed to the benefitting property owners. Engineer Kraftson estimated the final cost to be \$3,000.00 more than the preliminary estimate, and staff is working to keep the project costs as close to budget as possible. He noted the assessments to property owners would not increase. The work is expected to be completed within two weeks.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 11-33

RESOLUTION DECLARING COSTS TO BE ASSESSED AND ORDERING PREPARATION OF THE PROPOSED ASSESSMENT ROLL FOR THE 1ST AVENUE AND 2ND AVENUE NORTH CURB, GUTTER, AND STORMWATER IMPROVEMENT PROJECT

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

Susan St. Ores – aye
Connie Carlson – aye

Dan Goldston – aye
Mark Ostertag – aye

Michele Hanson – aye

NEW BUSINESS

Consider a conditional use permit (CUP) to allow outdoor uses in conjunction with the proposed tavern/restaurant at 193 3rd Street North: Assistant Administrator/Planner Taylor reviewed an application from Jeff and Michelle Hause for a conditional use permit for a proposed tavern/restaurant in the B-2 Central Business zoning district, to allow storage and activity outdoors at the site. The proposed outdoor uses include a walk-in cooler; areas on the front, side, and rear of the building for patron seating, smoking and liquor consumption; and a recreation area in the rear of the building with two game courts. The Planning Commission held the required public hearing on August 22, 2011, and recommended approval of the application, subject to staff conditions and three Planning Commission conditions that have been included in the approval resolution. Staff believes the proposed outdoor uses are similar to those found in the surrounding neighborhood and that the proposed site improvements will minimize impacts to the adjacent properties. Staff recommended approval of the CUP with limited hours of operation until 10:00 p.m. Sunday-Thursday and 12:00 a.m. on Friday and Saturday. Planner Taylor stated resident concerns voiced at the public hearing have been addressed in the final conditions of approval. Applicant Jeff Hause stated he has moved his main construction business office to the second floor of the building and hopes to open the tavern/restaurant in mid November.

Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 11-30

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT (CUP)
TO ALLOW OUTDOOR USES IN CONJUNCTION WITH THE PROPOSED
TAVERN/RESTAURANT AT 193 3RD STREET NORTH**

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	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

Consider an amendment to the city's special assessment policy: Administrator Berg reviewed proposed amendments to the city's special assessment policy. He noted the current policy permits one assessment method, the per unit method, with deviation allowed for unique or unusual circumstances. Staff discovered recent sidewalk projects have been assessed on a linear foot basis; however documentation was lacking that allowed this deviation. The proposed policy reflects current methodology and recommendations by the League of Minnesota Cities, in an effort to treat property owners equally. The three assessment methods included are the unit basis (7,000 square feet equaling one unit), adjusted front footage basis, and per lot basis. The proposed policy also includes assessments for unimproved lots or parcels and a deferment option for such lots. It also includes a new hardship deferment for disabled property owners (as recognized by Social Security) and Minnesota National Guard or other military reserve personnel. He reviewed Appendix A that addresses adjusted front footage assessment options. Attorney Vivian noted the burden is on the property owner to apply for the assessment deferral. Discussion followed on the definition of an unimproved lot and it was recommended the language be clarified to make the intent clearer, prior to approval. Attorney Vivian recommended adding a section to address abatement of assessments, based on the particular circumstances of ownership, and councilmembers recommended adding a depreciation clause. Further discussion and approval was tabled to the next meeting. Administrator Berg noted the policy needs to be adopted prior to finalizing the assessment roll for the 6th Street North Improvement Project.

Consider adopting a flood emergency sandbag policy: Administrator Berg summarized a proposed city flood emergency sandbag policy, finalized after reviewing the impact of this spring's flooding. It

includes a limit of 1,000 sandbags per property, which correlates with the majority of sandbag requests made to the city this past spring. Discussion followed on whether sandbags could be returned to the city and Administrator Berg noted the language as written allows the city flexibility in accepting unused sandbags. He also reported the city keeps accurate records on the amount of sandbags prepared and distributed, as part of the process in recovering flood-related costs through FEMA.

It was moved by Councilmember Carlson and seconded by Councilmember Ostertag to adopt the City of Bayport Flood Emergency Sandbag Policy as presented. Motion carried 5-0.

Consider an amendment to Chapter 6 Alcoholic Beverages of the Bayport City Code of Ordinances related to social hosting: Police Chief Eastman reviewed an amendment to the city's ordinance relating to alcoholic beverages, drafted upon the recommendation of the Washington County Public Health Department. It allows law enforcement the ability to hold a person responsible for hosting an event or gathering where underage drinking occurs. She noted the policy as written could hold a homeowner criminally responsible for social hosting, even if they are not present at the time; however, enforcement would be discretionary, based on circumstances of the event. Councilmember Hanson recommended a text amendment to the definition of the term "host."

Councilmember Carlson introduced the following ordinances and moved their adoption:

Ordinance #829 and #829S

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA
AMENDING CHAPTER 6, ALCOHOLIC BEVERAGES, ARTICLE I OF THE
BAYPORT CITY CODE**

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

Susan St. Ores – aye	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

2012 Budget Presentation: Administrator Berg presented an overview of the proposed 2012 budget, detailing the city's water and sewer enterprise funds. He noted the water enterprise fund is projected to realize a loss of \$178,738.00, with a projected loss of \$111,989.00 for the sewer enterprise fund. The proposed budget incorporates an approximate 10% increase in sewer and water rates to offset decreased usage and maintain the city's infrastructure. He stated the budget proposes an overall levy increase at or below 1.95%, which would result in a \$25.00-\$35.00 tax increase on a residential property. The proposed levy increase will help the city maintain its level of services, while becoming less dependent on local government aid and other states aids, which have been greatly reduced in recent years. Mayor St. Ores noted the City Council reviewed the proposed budget line items in detail at two budget workshops and staff continues to review opportunities to increase revenue and decrease expenditures. Administrator Berg also mentioned that even with a zero levy increase some properties in Bayport may see a small tax increase, as a result of the state eliminating the market value homestead credit and converting it to a market value exclusion.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 11-26

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ESTABLISHING THE PRELIMINARY LEVY CERTIFICATION FOR THE CITY'S
GENERAL FUND AND LIBRARY FUND AT \$1,135,559.30**

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

Susan St. Ores – aye	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

Councilmember Ostertag introduced the following resolution and moved its adoption:

Resolution 11-31

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING THE PRELIMINARY CITY BUDGET FOR 2012**

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	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 11-32

**RESOLUTION OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
ADOPTING THE PRELIMINARY CAPITAL IMPROVEMENT PLAN
FOR 2012 THROUGH 2016**

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

Susan St. Ores – aye	Michele Hanson – aye
Connie Carlson – aye	Mark Ostertag – aye
Dan Goldston – aye	

Mayor St. Ores stated that public input on the 2012 budget and levy would be heard at the December 5, 2011 City Council meeting at 6:00 p.m. Administrator Berg indicated he may be scheduling another budget workshop prior to the final budget adoption at the December 2011 meeting.

COUNCIL ITEMS AND ANNOUNCEMENTS

1. Councilmember Ostertag reviewed the businesses and individuals who donated to the recent Safety Camp and Night to Unite events and thanked everyone for their support.
2. Mayor St. Ores stated she has attended three Community Symposium events in the last month and indicated residents still have an opportunity to provide input via one of the remaining town hall sessions or at the website, www.communitysymposium.com.

CITY ADMINISTRATOR STAFF ITEMS AND ANNOUNCEMENTS

- The city recently completed a sign inventory, which indicated that 254 of the city's 723 signs will need to be replaced by January 22, 2018, to comply with new federal reflectivity standards. The city had anticipated having to replace signs city-wide. Material costs are estimated at \$14,179.00.
- Staff continues to work with FEMA to recover costs associated with flood efforts this past spring.
- Washington County will be conducting an aerial count of the deer population in February or March when there is less tree cover.
- The third quarter city newsletter will be distributed this week.

- Administrator Berg recognized the efforts of the entire Police Department staff for hosting the successful Safety Camp and Night to Unite events during challenging weather conditions.

ADJOURNMENT

It was moved by Councilmember Goldston and seconded by Councilmember Carlson to adjourn the meeting at 9:02 p.m. Motion carried 5-0.

City Administrator/Clerk