

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
JUNE 1, 2020
6:00 P.M.**

** Due to COVID-19 and social distancing protocols, this meeting was conducted by electronic means as permitted by Minnesota Statute 13D.021 due to a health pandemic or declared emergency. **

CALL TO ORDER

Pursuant to due call and notice, Mayor St. Ores called the regular City Council meeting of June 1, 2020, to order at 6:02 p.m. and asked Councilmembers, staff, and the audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members: Mayor Susan St. Ores (present at City Hall)
Councilmembers John Dahl, Connie Carlson, John Buckley and Michele Hanson (present by electronic means)

Staff: City Administrator Adam Bell, Assistant Administrator/Planner Sara Taylor, Fire Chief Allen Eisinger, Police Chief Laura Eastman, Public Works Director Matt Kline, City Attorney Andy Pratt, and City Engineer John Parotti (present by electronic means)

APPROVAL OF AGENDA

It was moved by Councilmember Carlson and seconded by Councilmember Dahl to approve the City Council agenda. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

PROCLAMATIONS, COMMENDATIONS, PETITIONS, ANNOUNCEMENTS

Mayor St. Ores noted the April/May recycling award recipients are Katy Irlbeck and Jennifer Hedtke who will be awarded for recycling efforts with funding made possible by a grant from Washington County.

CONSENT AGENDA

Mayor St. Ores read items 1-7 on the Consent Agenda. Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 20-14

**RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-7 FROM THE
JUNE 1, 2020 CITY COUNCIL AGENDA**

1. April 16, 2020 City Council workshop minutes
2. May 4, 2020 City Council regular meeting minutes
3. May payables and receipts
4. May building, plumbing, mechanical, and zoning permits report
5. City infrastructure utility easement for 338 5th Avenue North
6. Authorization to replace existing speed display sign
7. Special event application from Bayport American Legion for a Flag Day burning ceremony at Perro Park on June 14, 2020

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

Susan St. Ores - aye

Connie Carlson- aye

John Buckley - aye

John Dahl - aye

Michele Hanson -aye

PRESENTATION OF THE 2019 CITY’S AUDITED FINANCIAL STATEMENTS

Administrator Bell introduced Ryan Schmidt with Schlenner Wenner & Co., the city’s auditing firm. An overview of the audit process was provided, noting the city received an unmodified (clean) audit opinion. Mr. Schmidt stated that the audit involves the examination of internal controls relative to financial reporting and that compliance was identified with the regular challenges present for a city the size of Bayport. A summary of the budgeted versus actual expenditures was provided, in addition to a revenue analysis of the general, water, and sewer funds. Overall, the city is in good financial standing, with the current total net position increasing by \$1,950,529 to \$40,355,853 at 2019 year-end.

It was moved by Councilmember Dahl and seconded by Councilmember Buckley to accept the 2019 audit findings. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

PUBLIC HEARINGS

1. Consider a resolution for a variance to expand an existing legally non-conforming single-family home with a new attached single stall garage at 466 Perro Creek Drive: Assistant Administrator/Planner Taylor noted that the subject property contains a single-family house, is surrounded primarily by residential uses and is zoned R-2 Single Family Urban. Property owner Jeff Oswald has submitted an application for a variance to allow an expansion of the existing house with a new attached single stall garage and asphalt driveway on the north side of the property. The house is considered legally non-conforming because it does not meet current building setback requirements from the south property line. The zoning code allows legally non-conforming structures to continue to be used and be reasonably maintained. However, any alteration, expansion, or improvement to the structure beyond normal maintenance requires a variance.

Assistant Administrator/Planner Taylor stated that while the proposed expansion will increase the footprint of the house, it will not increase the non-conformity of the structure or encroachment further into the setback. The south setback for the house will remain at approximately 9 feet, which is the setback that currently does not comply with the required 10 feet. The north wall of the house will be extended to accommodate the new attached garage and result at a setback of 5 feet. Overall, the expansion will meet all other setback, height, and impervious coverage requirements. Based on Minnesota Statutes criteria and the reasons stated within the staff report, staff is recommending approval of the variance, with the conditions of approval outlined in the resolution. Both the garage and driveway improvements will provide adequate and necessary off-street parking and indoor storage for vehicles and recreation equipment, both of which do not currently exist at the property. Notice of the public hearing was posted and published in the Stillwater Gazette on Friday, May 15, 2020, and mailed to property owners within 350 feet of 466 Perro Creek Drive. The city did not receive any written comments on the application. Applicant Jeff Oswald offered comments on the variance request, noting the garage addition is necessary for the storage of vehicles and recreational equipment.

It was moved by Councilmember Hanson and seconded by Councilmember Dahl to open the public hearing. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

No public comments were received.

It was moved by Councilmember Dahl and seconded by Councilmember Carlson to close the public hearing. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye

Connie Carlson- aye

John Buckley - aye

John Dahl - aye

Michele Hanson -aye

The consensus of the City Council was that the variance request met the criteria required by state statute, the proposed use was reasonable, and the garage addition would be a net improvement to the property and the neighborhood.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 20-15

A RESOLUTION APPROVING A VARIANCE TO EXPAND AN EXISTING LEGALLY NON-CONFORMING SINGLE FAMILY HOME WITH A NEW ATTACHED SINGLE STALL GARAGE LOCATED AT 466 PERRO CREEK DRIVE, LEGALLY DESCRIBED AS THE NORTHERLY 8 FEET OF LOT 14, AND ALL OF LOT 15, EXCEPT THE WESTERLY 10 FEET OF BOTH LOTS, BLOCK 91, BAYPORT, WASHINGTON COUNTY, MINNESOTA

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

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

UNFINISHED BUSINESS

1. Consider a Statement of Disapproval on behalf of the City Council from the April 16, 2020 workshop: City Attorney Andy Pratt noted the City Council held a special workshop meeting on April 16, 2020, to discuss City Council relations and communication, specifically as it related to email communications between Councilmember Buckley and former City Finance Officer Wanda Madsen. After discussion, the City Council voted 4-1 to have a Statement of Disapproval drafted and further voted 3-2 to publish/append this Statement of Disapproval to the April 16 meeting minutes.

Attorney Pratt stated the email communications are categorized into two broad topics:

(i) *Impermissible Forgiveness of Special Assessment Interest* whereby interest was forgiven on a sidewalk special assessment that was levied against/payable by family members of Councilmember Buckley. Finance Officer Madsen allowed the landowners to back-date the special assessment check to a date that was 30 days after City Council approval of the special assessment, such that no interest accrued, and was not authorized to do so.

(ii) *General City Communication* whereby comments made in widespread email communications between former Finance Officer Madsen and Councilmember Buckley were unprofessional and disregarded the chain of command, creating a hostile work environment, leading to potential legal liability for the city, and undermining trust among all councilmembers. As an elected official and former member of the city staff, Councilmember Buckley should be more aware that his communications may be public and must take better care not to engage in unprofessional conduct.

Attorney Pratt mentioned the goal of the statement was to reflect the discussion of and disapproval of these matters in lieu of requesting Councilmember Buckley’s resignation or censuring him on the City Council. Ultimately, it was decided to publish the Statement of Disapproval. In the review of the document, Councilmember Buckley requested two revisions, which included rewording the behavioral term “inappropriate” to “unprofessional” and a notation that Councilmember Buckley discussed certain subject matters in the relevant email communications with Administrator Bell. Discussion amongst the City Council ensued on the proposed revisions. The consensus of the City Council was to incorporate a revision to reflect the conduct/behavior as “unprofessional,” but a majority did not support specifying that certain matters were discussed with Administrator Bell, as it did not add value or context to the statement. Mayor St. Ores reiterated that the conduct disapproval in topic (ii) was specific to unprofessional communication between former Finance Officer Madsen and Councilmember Buckley which included unsubstantiated information, constituting potential harrasment, and not whether it was discussed with Administrator Bell. In the future, Mayor St. Ores welcomed any matter to be brought forward to the City Council for discussion.

Discussion followed on topic (i) and Councilmember Hanson recalled that the misconduct was more on the part of former Finance Officer Madsen than on Councilmember Buckley, as the waiver of special assessment interest was not solicited by Councilmember Buckley. Councilmembers Carlson and Buckley agreed, with Councilmember Buckley acknowledging a lack of understanding as to whether former Finance Officer Madsen had the authority to waive special assessment fees (Councilmember Buckley recalled other fee waivers occurring during his tenure as a city employee). Mayor St. Ores and Councilmember Dahl agreed that Councilmember Buckley may not have solicited the waiver of fees, but acknowledged that as a city official, he is held to a higher standard. As a councilmember and former city employee, acceptance of any type of gift or special treatment is not appropriate and ignorance does not excuse the behavior. Councilmember Buckley should have brought the matter to the attention of Attorney Pratt or Administrator Bell. The past practice of waiving administrative fees was clarified by Administrator Bell, noting that fees related to special assessments are not eligible for a waiver, but payment arrangements and/or waiver of late fees on pet licenses or utility bills have been entertained in the past due to unique circumstances. Attorney Pratt further clarified that topic (i) was intended to state the disapproval for the overall transaction of the special assessment waiver, not for actions specific to former Finance Officer Madsen or Councilmember Buckley. He reiterated that if further changes to the statement are desired per the discussion, a motion shall be presented for the City Council to consider such proposed revision(s) and that Councilmember Buckley may or may not choose to recuse himself from the vote.

It was moved by Councilmember Hanson and seconded by Councilmember Buckley to remove topic (i) in the Statement of Disapproval drafted by Attorney Pratt. Mayor St. Ores stated she has very strong feelings about someone voting to dismiss or discount behavior on their own behalf, especially in light of all the time and effort spent on this topic over the past few months, but that she would put the motion forward to the vote of the City Council. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - nay
John Dahl - nay

Connie Carlson- nay
Michele Hanson -aye

John Buckley - aye

Attorney Pratt noted the motion failed 3-2 and therefore the Statement of Disapproval will stand as drafted, except for the City Council consensus to indicate “unprofessional” as opposed to “inappropriate” conduct within the Statement. The Statement will be included as part of the April 16, 2020 meeting minutes.

NEW BUSINESS

1. Consider authorization to solicit quotes for sanitary sewer cleaning and televising: Public Works Director Kline noted that the city contracts for service for primary sewer cleaning every three years, due to a lack of department staff and time required to accomplish this work. Staff is proposing to clean approximately 46,000 linear feet and televise approximately 32,000 linear feet of sanitary sewer pipe this year. The cleaning portion of the quote solicitation will be primarily in the downtown area of the city with older infrastructure. The televised portion will be for areas that have clay tile and transite pipe, which are more prone to failure due to age. Televising data will be used to determine future repairs and potential lining projects. Quotes will be solicited in June, with anticipation of the award at the July City Council meeting and completion of work by October 31. While staff understands there may be financial impacts to the city as a result of the ongoing pandemic, this work is essential to maintain the proper functioning of the sewer system and address any critical repairs that need to occur.

It was moved by Councilmember Carlson and seconded by Councilmember Dahl to approve the solicitation of quotes for sanitary sewer cleaning and televising, with specifications to be prepared by the City Engineer, as presented. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

2. Consider a temporary reclassification of the Office Support Specialist position to assume city accounting and

utility billing functions: Administrator Bell provided an overview of the daily workload that has been assumed by the Office Support Specialist (OSS) positions, which was previously performed by the Finance Officer position. Since assuming these duties, the OSS have expressed gratitude in being given the opportunity to take on additional responsibility and are interested in continuing with these duties on a longer-term trial basis. Due to COVID and the unknown effects the pandemic may have on the organization and budget, management staff believes this is the best option in the immediate future for accomplishing the daily workload related to finance and utility billing. Some existing functions of the Office Support and Finance Officer positions have been temporarily assumed by other administrative staff and payroll has been outsourced to the city's auditing firm Schlenner Wenner at a cost of approximately \$7,500 per year. To acknowledge the increased responsibility and workload, staff is proposing a temporary salary increase for the OSS position from Grade 2, Step 2 at a current salary of \$43,909 (\$21.11 per hour) to Grade 5, Step 2 with a salary of \$54,727 (\$26.31 per hour) on the compensation step schedule. The Finance Officer position was previously slated at a Grade 8, Step 8 at a salary of \$91,677 (\$44.08 per hour). The management staff has discussed the proposal with OSS staff and it was agreed to present this to the City Council for consideration, with implementation effective immediately and anticipation of reevaluating the Finance Officer position and staffing needs this fall. Discussion followed on the significance of the overall cost savings this would provide to the city, and staff was commended for creative reallocation of duties and willingness to assume additional workload. The consensus of the City Council was to move forward with the proposal, as presented.

It was moved by Councilmember Carlson and seconded by Councilmember Buckley to temporarily reclassify the Office Support Specialist position and authorize a salary adjustment as presented and discussed. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

3. Consider a resolution for temporary waiver of city permit and zoning requirements to promote business activity during COVID-19 health pandemic: Administrator Bell provided an overview of the proposed resolution, which acknowledges the continued risk and the threat of community spread of the COVID-19 virus and the negative impact it has had on local businesses. The resolution is also intended to support the reopening of commercial activity by establishing conditions under which drive-up areas, customer ordering, waiting or pick-up areas, or customer seating or service areas on its property may be implemented or expanded, consistent with federal and state orders or health and safety guidelines. He noted that most restaurants in the city currently have a conditional use permit (CUP), which allows outdoor seating and liquor service. This resolution would provide authority for city staff to administratively grant a temporary expansion of CUP regulations and/or implement similar exemptions for foodservice establishments that currently do not have an existing CUP or liquor license in place. Discussion followed on the importance of supporting local businesses during this difficult time and it was noted that the Greater Stillwater Chamber of Commerce is a great resource for assistance.

Councilmember Hanson introduced the following resolution and moved its adoption:

Resolution 20-16

A RESOLUTION APPROVING TEMPORARY WAIVER OF CITY CODE PERMIT AND ZONING REQUIREMENTS TO PROMOTE BUSINESS ACTIVITIES DURING THE COVID-19 HEALTH PANDEMIC

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

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

4. Consider renewal of the contract with MnSPECT for building inspection services: Administrator Bell noted that the city's existing building inspection service agreement with MnSPECT is due to expire in July. He stated

that the city has retained services of MnSPECT since 2016 and proceeded to review provisions of the current contract, which seem to be comparable to cities with other contract inspection service firms, as well as other cities served by MnSPECT. City staff conducted an informal survey within the past month to gauge the satisfaction of MnSPECT services and the overall response was fairly positive. Scott Qualle, MnSPECT Building Official, commented on renewal of the 3-year contract, noting no proposed change in terms or fees. He acknowledged feedback received from residents and contractors via the city survey and noted an opportunity for continued improvement in the delivery of services.

It was moved by Councilmember Dahl and seconded by Councilmember Hanson to renew a 3-year contract with MnSPECT for building inspection services as presented and discussed. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores - aye
John Dahl - aye

Connie Carlson- aye
Michele Hanson -aye

John Buckley - aye

CITY COUNCIL LIAISON REPORTS

Councilmember Carlson reported on the May Library Board meeting. Discussion items included progress on the Facilities Master Plan, virtual summer library programs, and resuming book delivery to Croixdale. The next meeting is scheduled for June 16.

Councilmember Dahl reported on the May Middle St. Croix Watershed Management Organization meeting. Discussion items did not pertain directly to Bayport but included an update on the *Watershed, One Plan* document and broader community projects in the watershed area.

Mayor St. Ores reported on the May Greater Stillwater Chamber of Commerce meeting with surrounding community officials. Discussion focused on ongoing projects within each city, as well as efforts in response to COVID and promotion/support for local businesses. She commended all Bayport staff for their continued dedication, professionalism, and hard work during the pandemic.

STAFF/CITY ADMINISTRATOR REPORTS

Chief Eisinger summarized his written report, noting the call volume is down 25-50% due to COVID and the stay at home order. The department recently engaged in e-drills, rescue boat training, and assisting businesses with plans for outdoor seating. They are also in the process of modifying the department's response policy related to COVID.

Chief Eastman reviewed the month's activities, including assisting with quotes to obtain a new speed display sign approved earlier on the agenda, as well as assisting business with preparation for outdoor seating/service compliance and attending several meetings related to COVID. She also attended a protest briefing related to events that transpired over the past week in response to the Minneapolis Police Department incident involving a fatality. She will keep the City Council informed should activity ensue in Bayport and if additional assistance is necessary for enforcement.

Public Works Director Kline provided an overview of recent department activity and an update on the Highway 95 Improvement Project and related impacts. Due to COVID, the department has been impacted by the lack of seasonal employees and volunteers to help with summer work but hopes this will improve in the coming weeks. Due to Highway 95 construction impacts, the hanging flower baskets will be dispersed at alternate locations throughout the city, including the municipal parking lot and 5th Ave. N. MS4 Program materials are complete and will be presented to the City Council with a public hearing in June. The Lakeside Park new playground equipment installation is underway, to be completed later this month.

Assistant Administrator/Planner Taylor summarized the variance application process that was approved earlier on tonight's agenda. She reported on progress related to the Land and Water Legacy Project, noting survey work and the wetland delineation will be complete in the coming weeks. The Washington Conservation District has also commenced work on the resource management plan, as required by the conservation easement. She

provided an update on new policies and procedures for the upcoming elections. As of now, the Primary and General Elections will be held as scheduled, but mail or early in-person absentee voting is strongly encouraged to reduce the quantity of in-person voters, election staff, and personal protection equipment. Other projects this month include continuation of rewriting the city’s personnel policy ordinance, completing plan review on 12 permit applications, coordinating with Minnesota Land Trust on the conveyance of remaining outlots within Inspiration, and assisting with re-allocation of administrative duties as a result of the vacant finance position

Administrator Bell provided an overview of his written report. He noted a significant amount of effort was spent creating the temporary outdoor seating expansion program approved earlier on tonight’s agenda. He thanked the City of Stillwater for sharing information and Washington County Commissioner Gary Kriesel for advocating for Bayport and other cities’ businesses. A phased reopening plan for city facilities was presented, including multiple phases. The current phase will continue for the immediate future, with all facilities remaining closed to the public. The next phase will entail appointments only for necessary in-person service, followed by possible open, but reduced hours for City Hall. The final phase will entail the nearly complete reopening of city facilities. He reported that all June park reservations were canceled in May. Following the county and surrounding communities’ leads, Bayport opened the city playgrounds and park shelters on May 22. Athletic fields can be reserved, but park shelters, Beach House, and Nature Center are not being reserved through June.

CITY COUNCIL ITEMS AND ANNOUNCEMENTS

Councilmember Hanson noted that the St. Croix Crossing Loop Trail is now open.

ADJOURNMENT

It was moved by Councilmember Hanson and seconded by Councilmember Dahl to adjourn the meeting at 8:52 p.m. and upon roll call being taken thereon, the following vote via voice:

- | | | |
|----------------------|---------------------|--------------------|
| Susan St. Ores - aye | Connie Carlson- aye | John Buckley - aye |
| John Dahl - aye | Michele Hanson -aye | |

City Administrator/Clerk