

CITY OF BAYPORT
BAYPORT CITY COUNCIL MEETING MINUTES
BAYPORT CITY COUNCIL CHAMBERS
OCTOBER 6, 2003
7:00 P.M.

CALL TO ORDER

Pursuant to due call and notice thereof, Mayor Rick Schneider called the regular City Council meeting of October 6, 2003, to order at 7:00 p.m. and asked Councilmembers, staff and the audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members present: Mayor Schneider, Councilmember Kamps, Councilmember Johnson, Councilmember Nowaczek and Councilmember Ridgway

Members absent: None.

Others present: City Administrator Mike McGuire, Attorney Tim Kelley, City Engineer Barry Peters, Mike Darrow of Northwest Associated Consultants (NAC), Fire Chief Mike Bell and Police Chief John Gannaway.

PROCLAMATIONS/COMMENDATIONS/PETITIONS

Mayor Schneider announced the recycling participants for the month of September.

Police Chief John Gannaway stated that Wednesday, October 8 will be declared Safe Kids Walk to School Day. It's a statewide event occurring in 6 cities in Minnesota and is hosted by the Minnesota Safety Council, Minnesota Safe Kids Coalition, General Mills and 3M. They are asking parents to walk or bike with their kids to school, they evaluate the safety of the streets. Police officers will be there at 7:30 and will be giving out food, coupons, there will be a mascot. John Gannaway stated it's promoting the safety of the community and the streets, especially involving school children. John Gannaway further stated that he has asked for some of the elected officials to appear if possible.

Fire Chief Mike Bell stated that October 5 through 11th is Fire Prevention Week – this year's theme is "When Fire Strikes Get Out and Stay Out." This is an annual event and is a reminder to everyone to install smoke detectors, test them regularly and develop and practice home fire drills. Mike Bell further stated that October 31 the fire department will have an open house from 4-8 p.m. and will have fire prevention materials and the hall will be open to the public.

OPEN FORUM

Mayor Schneider stated he would like to welcome Brian LeClair, our state Senator to the Council meeting.

CONSENT AGENDA

Mayor Schneider read the list of items on the Consent Agenda.

Councilmember Ridgway introduced the following resolution and moved its adoption:

Res. 03-64

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,
RESOLUTION #03-64 APPROVING CONSENT AGENDA ITEMS A, B AND C FROM
THE OCTOBER 6, 2003 COUNCIL AGENDA.

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

Bob Kamps – aye
Dan Johnson – aye
Rick Schneider - aye

Jon Nowaczek – aye
Sharon Ridgway – aye

COUNCIL LIAISON REPORTS

Sharon Ridgway stated there was not a cable meeting last month, they are under the new policy of having a cable meeting every other month with the next meeting to be held on October 15 at Valley Ridge Plaza at 7:00 p.m. in the cable studio.

Jon Nowaczek stated that the Library Board met on Thursday, September 25 with the main topic of discussion being the approval and receipt of a \$56,000 grant from the Andersen Foundation towards the 2003 Library operating budget. Jon Nowaczek stated that on behalf of the Library Board, the Council and the citizens of Bayport he would like to thank the Andersen Foundation for the generous contribution; it is their ongoing support which helps keep the library in our community and the City greatly appreciates their generosity. The next Library Board meeting is on Thursday, October 30.

Bob Kamps stated that the Andersen Community Advisory Committee met two weeks ago – there will be a public meeting regarding the EAW at the Stillwater High School on October 9 from 6:00 – 8:00 p.m. The Andersen Corporation and the Community Advisory Committee will have booths there to look over the EAW and answer any questions.

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Bob Kamps further stated that on the day of the meeting, Ron Van Zee was recognized, he has resigned from the Committee and there is an opening for any citizen who would like to sit on that committee. The Advisory Committee is tied up with the project Excel right now, but its main intent was for anyone who had a concern to communicate with the Andersen Corporation regarding noise pollution, water pollution, air communication, etc. This would be the way to communicate with the Andersen Corporation – the proper way to help resolve any questions with the corporation as they are trying to be a good corporate neighbor. Bob Kamps further stated people interested in serving on that committee could contact him or Kirk Hogberg and they could put names in for that seat.

Bob Kamps further stated that Independent School District 834 contacted him because of his involvement in youth sports and the Bayport City Council. They are attempting to coordinate the youth groups, cities and school district to upgrade some of the fields.

Sharon Ridgway attended the meeting and stated that the school district is giving up the responsibility of taking care of the fields, so it will shift to some other organization or the cities themselves. The cities will have to take over some of the responsibility to upgrade the fields and contribute some money.

Bob Kamps stated this was just a preliminary meeting so the district can get a feel for the 11 communities within Independent School District 834.

Mayor Schneider stated the City would like to thank Ron Van Zee for his excellent service.

Dan Johnson stated he is the delegate to the Lower St. Croix Partnership. The Partnership sponsored a forum at the Oakland Junior High School on September 17 to talk about proposed boating regulations on the St. Croix. Dan Johnson explained the ideas regarding no wake zones and speed limits. Dan Johnson stated if people had any comments on the regulations they can pass them on to him or the Lower St. Croix Partnership. Any public input would be welcome.

Mayor Schneider stated he was at that meeting also and that the majority of complaints he receives are about noise on the river.

CITY CONSULTANT REPORTS

1. City Attorney Report – Nothing at this time.
2. City Engineer Report –

Changer Order #2 Lametti & Sons RE: State of MN Storm Sewer. Barry Peters stated that during the construction on the north side of the prison groundwater conditions were significantly different from original borings – the groundwater is about 10 feet higher than borings taken during the design phase. There is a change order that needs Council approval – it was recommended and authorized by the Watershed – the City of Bayport needs to approve it as a fiscal agent.

Councilmember Kamps moved, seconded by Councilmember Nowaczek, to approve Change Order #2 for Lametti & Sons not to exceed \$30,000 for purposes of de-watering. Motion passed unanimously.

Supplemental Letter Agreement, State of MN Storm Sewer, Phase 3. Barry Peters stated that the Middle St. Croix Watershed Management Organization also asked that the Phase 3 State Storm sewer project be expanded to look at three more options for controlling Perro Creek as it runs through the City of Bayport. Barry Peters further stated that the City would need to approve this as a fiscal agent.

Discussion regarding the purpose of the project and other options.

Mayor Schneider stated that no money will be coming out of the City of Bayport, this project has already been funded.

Councilmember Ridgway moved, seconded by Councilmember Kamps, to approve the other options for Phase 3 for the St. Croix Watershed. Motion passed unanimously.

3. City Planner Report –

Simonson Variance Resolution. Mike Darrow stated the applicant is proposing to re-roof and place new siding and new windows on the principal structure. In order to re-roof the structure the applicant will be further encroaching into the side and front yard setbacks due to a one-foot eave extension. In order to proceed with the remodeling the applicant will need a variance from the non-conforming structure section of the zoning ordinance as well as a variance from the front and side yard setback.

Mike Darrow further stated this issue was brought before the Planning Commission on September 8, 2003, a public hearing was held and the planning commissioners took comments and closed the public hearing and recommended approval of the Simonson variance application by a vote of 5-0. Approval of the variance was based on hardship in complying with the zoning regulations and that no reasonable alternative was available that can meet the expansion of the roof eaves and also on the hardship in complying with the zoning regulations in that the structure was constructed prior to the zoning ordinance being amended.

Councilmember Nowaczek introduced the following resolution and moved its adoption:

Res. 03-71

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY,
MINNESOTA, RESOLUTION #03- APPROVING A VARIANCE
APPLICATION SUBMITTED BY KYLE SIMONSON FROM THE FRONT
AND SIDE YARD SETBACK WITHIN THE R-4 ZONING DISTRICT,
SECTION 601(5) AND THE NONCONFORMING STRUCTURE SECTION,
SECTION 402.03 OF THE ZONING ORDINANCE.

Councilmember Johnson made a motion to have the previous motion amended. Councilmember Johnson stated that findings of fact should be adopted when variances are approved to make a better record.

Councilmember Nowaczek moved, seconded by Councilmember Ridgway, to adopt the resolution as written including the findings of fact which document the granting of the variance.

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

Rick Schneider - aye
Sharon Ridgway - aye
Dan Johnson – aye

Bob Kamps – aye
Jon Nowaczek – aye

Nelson/Bay Dental Care Variance. Mike Darrow stated that the applicant is proposing to expand the dental space and improve his dental clinic. The proposed remodel will move all four treatment rooms to the south wall and allow for conformance with ADA standards. The structure currently does not meet the dimensional standards of the B-2 district a variance from non-conforming structure section of the zoning ordinance is being requested. The applicant is also requesting a variance from the parking requirements of the zoning ordinance. The Planning Commission on September 8, 2003 meeting held a public hearing regarding the Nelson variance, took comments and closed the public hearing and recommended approval of the Nelson variance application by a vote of 5-0. Mike Darrow then read the findings of fact contained in the resolution.

Discussion regarding parking spaces.

Brad Nelson confirmed that the space will not be increased in size and they are not planning on having an increased number of patients.

Mayor Schneider thanked Mr. Nelson for keeping his business in town and the hours of his business fits well with the hours of surrounding business and there shouldn't be a parking problem at all.

Bob Kamps stated that the required 17 parking sounds like a big amount. Mike Darrow stated that that number is currently in the zoning ordinance. Mike Darrow stated he did a zoning code check with surrounding cities and Bayport's ordinance is by far the strictest in regards to dental clinics.

Discussion regarding the use of the handicap parking space at the Library by the dental office.

Discussion regarding the partnership Mr. Nelson has and who actually owns the property.

Attorney Tim Kelley recommended amending the resolution to issue it to the owner of the parcel described on the property.

Councilmember Johnson introduced the following resolution and moved its adoption as revised:

Res. 03-72

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY,
MINNESOTA, RESOLUTION 03-72 APPROVING A VARIANCE
APPLICATION FROM THE NON-CONFORMING STRUCTURE SECTION OF
THE ORDINANCE, SECTION 402.03, AND SECTION 745 OF THE
ORDINANCE TO ALLOW FLEXIBILITY IN THE PARKING STANDARDS.

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

Rick Schneider - aye
Dan Johnson - aye
Sharon Ridgway – aye

Jon Nowaczek – aye
Bob Kamps – aye

Moving Permit Amendment. Mike Darrow stated that the Council, at the July 7, 2003 Council meeting, directed staff to perform a code search pertaining to moving permits. The amendment was presented for review and approval at the August 11, 2003 Planning Commission meeting – comments pertaining to the amendment were incorporated into the final copy. Mike Darrow summarized the amended zoning ordinance.

Councilmember Nowaczek inquired about the amount listed in the amendment regarding liability insurance and what it was intended to cover. Mike Darrow stated he did a code search on ten other communities and that seemed to be the standard.

Further discussion regarding dollar amounts of liability insurance, moving structures and adding an amendment.

Councilmember Nowaczek introduced the following resolution and moved its adoption as revised:

Res. 03-73

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY,
MINNESOTA, RESOLUTION #03-73 AMENDING APPENDIX B OF THE
ZONING ORDINANCE BY AMENDING SECTION 509.02, MOVING PERMIT

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

Rick Schneider - aye
Dan Johnson - aye
Sharon Ridgway – aye

Jon Nowaczek – aye
Bob Kamps – aye

Park Fees. Mike Darrow read the resolution for the Community Fund Park Fees and showed a park dedication fee matrix from 30 different communities in the metro area.

Further discussion regarding the community fund park fees.

Councilmember Johnson introduced the following resolution and moved its adoption:

Res. 03-74

RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY,
MINNESOTA, RESOLUTION #03-74 ESTABLISHING COMMUNITY FUND
PARK FEES.

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

Rick Schneider - aye
Dan Johnson - aye
Sharon Ridgway – aye

Jon Nowaczek – aye
Bob Kamps – aye

PUD Amendment. Mike Darrow stated that public hearing was held on April 14, 2003, the PUD similar to the subdivision ordinance went through a workshop process with members of the Planning Commission and members of the City Council were also at those meetings. The reason for the delay in getting to the Council is that it was determined that it should be reviewed by the new administrator. Mike Darrow explained the changes and reviewed the summary ordinance provided to the Council.

Further discussion regarding the PUD ordinance.

Councilmember Nowaczek moved, seconded by Councilmember Johnson, to adopt the amended Planned Unit Development Ordinance as part of Bayport City Code amending Section 507 and publishing the summary. Motion passed unanimously.

Planning Commission Meeting Change. Mike Darrow stated that at the September 8, 2003 Planning Commission meeting, the Commission recommended by a 5-0 vote to change the monthly meeting date from the second to the third Monday of each month to cut down on waiting time for applicants.

Mike Darrow further stated that according to Section 278 of the City Code the City Council can change the date of the meeting by simple voice vote rather than by resolution. If approved by the City Council, staff and the Planning Commission recommend the date change effective January 19, 2004.

Councilmember Johnson stated that he didn't think anyone had a problem moving the meeting to the third Monday, the only problem is that the meetings may not be able to broadcast the meetings live because the community television is already committed to a live broadcast on that day, but it could be taped and broadcast according to schedule.

Councilmember Johnson moved, seconded by Councilmember Kamps, to change the date of the Planning Commission meetings to the third Monday of each month effective with the meeting on January 19, 2004. Motion passed unanimously.

Development Tour Discussion. Mike Darrow stated the purpose of the tour would be to better understand types of residential, commercial and mixed use developments as well as areas of open space. A development tour is a common way for city officials and stakeholders to physically see types of development and have a better understanding of physical conditions that exist within each. Mike Darrow further stated he is bringing this forward because if an application for a major subdivision were to take place within the next several months, it would be a good idea to have an understanding of the physical environment before it snows.

Mike Darrow further explained some of the things they would be looking at and discussed his research of possible developments to tour.

Discussion regarding the open meeting law, how to conduct the tour and the benefits of having a guide on the tour.

Mike McGuire stated he would check with the Council members and the Planning Commission members and other people to go on the tour for a date and time that would work and go through the process of setting a special meeting.

DNR Meeting Update. Mike Darrow stated the Planning Commission will be on Tuesday instead of Monday because of the Columbus Day holiday. The DNR will be discussing the issue of the flood way boundary – the DNR will hold a public hearing on any change to the boundary within the City of Bayport sometime in the winter. Molly Shodeen will be at the Planning Commission meeting on October 14th to discuss the boundary and take comments.

UNFINISHED BUSINESS

1. Montanari Property 575-595 Lakeside Drive. Mike McGuire stated that Jyneen Thatcher from the Conservation District was to contact Attorney Tim Kelley today if there was any definite movement, but did not call Mr. Kelley, so it is requested to be tabled until the November Council meeting.

Councilmember Kamps moved, seconded by Councilmember Johnson, to continue the Montanari Property discussion until the next City Council meeting. Motion passed unanimously.

2. Charles Kaiser Property – RE: Driveway. Mike McGuire stated this issue has been resolved and read a sentence from a letter from Mr. Kaiser. Mike McGuire stated he looked at the driveway and it should be taken care of so no action is required.

Mayor Schneider stated that if the problem had been fixed in the first place Mr. Kaiser wouldn't have had to put up with the drainage problem. Mayor Schneider apologized to Mr. Kaiser for the way this process was handled and if there are any further problems, let the City know.

NEW BUSINESS

1. La Cocinita – request for full liquor license. Mike McGuire stated this is a three-part request – the first part for a liquor license, but the City does not have an extra liquor license so it can't be granted at this time.

Mike McGuire explained the options for obtaining additional liquor licenses. Mike McGuire stated the third part was liquor license fees – the fees in Bayport seem to be very low in comparison to other communities. Bayport is low because there hasn't been an increase in 23 years – typically cities increase every two or three years. Mike McGuire further stated increasing the liquor license fees requires a public hearing and he suggested having a public hearing at the next Council meeting if the Council agrees that the fees are too low. The administrative costs of issuing and policing liquor licenses have gone up considerably but the fees have remained the same.

Attorney Tim Kelley stated that liquor license statutes require a 30-day notice so the public hearing would have to be held in December.

Discussion regarding the number of liquor licenses currently in Bayport.

Councilmember Nowaczek moved, seconded by Councilmember Ridgway, to set the public hearing date for the December 1, 2003 Council meeting. Motion passed unanimously.

2. Authorize Fire Department to proceed with purchase of medical/utility truck and accept donation from Andersen Foundation. Fire Chief Mike Bell stated he is pleased to announce the full amount requested for the funding for the medical/utility vehicle from the Andersen Foundation was received in the amount of \$18,817.21 and is asking the Council to accept the donation and authorize the fire department to proceed with the purchase of the truck and equipment not to exceed \$41,000. Fire Chief Mike Bell stated that the only change will be that they will purchase a 2004 model vehicle instead of the 2003 model, there will be a \$2,000 difference.

Mayor Schneider thanked the Andersen Foundation and stated it was a great idea to have this vehicle for safety reasons and to save wear and tear on the larger trucks.

Councilmember moved, seconded by Councilmember Johnson, to accept the donation of \$18,817.21 from the Andersen Foundation for the medical/utility truck and authorize the fire department to proceed with the purchase of the truck and related equipment not to exceed \$41,000.00. Motion passed unanimously.

COMMUNICATIONS/REQUESTS

COUNCIL ITEMS/ANNOUNCEMENTS

Councilmember Kamps offered to participate in the Safe Kids Walk to School Day and wear the costume.

ADMINISTRATOR ITEMS/ANNOUNCEMENTS

Update on Community Survey. Mike McGuire stated the survey will be received by the end of the week and suggested having a special meeting. Councilmember Johnson stated it would be a workshop because there will be no action taken. A tentative date for the workshop was set for October 27, 2003 from 5:00 to 7:00 p.m.

Consider Setting Joint Meeting with Oak Park Heights. Mike McGuire stated he was contacted by the City Administrator of Oak Park Heights inquiring whether the Council wanted to meet with Oak Park Heights. There were no specific items to discuss.

Discussion among the Council indicated interest, but they would like to put it off until after the first of the year when it slows down since there are so many meetings scheduled until then.

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2004 Budget Update. Mike McGuire stated he was bringing this item tonight because its somewhat different than what was anticipated during the budget hearing in September, but any action would be taken in December at the regular Council meeting when the budget is finalized. Mike McGuire explained three different scenarios regarding the levy.

Brian LeClair, State Senator, discussed the levy and budget issues.

Further discussion regarding the budget.

STAFF REPORTS

ADJOURN

Councilmember Kamps moved, seconded by Councilmember Nowaczek, to adjourn the meeting at 9:00 p.m. Motion passed unanimously.

Respectfully submitted,

Mike McGuire
City Administrator