

**CITY OF BAYPORT
CITY COUNCIL SPECIAL MEETING MINUTES
COUNCIL CHAMBERS
MAY 20, 2019
5:00 PM**

CALL TO ORDER

Pursuant to due call and notice, Mayor St. Ores called the special meeting to order at 5:04 p.m.

ROLL CALL

Members Present: Mayor Susan St. Ores, Councilmembers John Buckley, Connie Carlson, Michele Hanson, and John Dahl

Staff Present: City Administrator Adam Bell, Assistant City Administrator/Planner Sara Taylor, and City Attorney Andy Pratt

Approval of the agenda was discussed. Mayor St. Ores addressed the councilmembers and meeting attendees regarding the Land and Water Legacy Project (LWLP). She feels the project lacks transparency and public input and was critical of the lack of public vetting and the sense of urgency necessitating a special meeting. Mayor St. Ores cited several large scale city projects like the new Fire Hall and 2020 Highway 95 project which both provided opportunity for public input. Mayor St. Ores stated the LWLP has been a discussion point for almost 5 years amongst staff and City Council, and she questioned why no public hearing was ever held. She would like to see a public forum, whereby financial liability, mandatory project milestones, and both fixed and recurring costs for the new park are fully explained. Mayor St. Ores expressed a desire for the project and the potential benefits it could provide to the city but asks that a vote on the LWLP be postponed until the community gets full disclosure of the project details.

Mayor St. Ores cited specific contract details under which the city would face financial penalty if project milestones went unmet. Administrator Bell indicated project milestones were limited to removal of existing structures, reversion to a natural landscape, and ensuring public access to the land prior to December 31, 2021. These costs would be borne by the city and were estimated at \$50,000-\$60,000. No further parameters beyond passive recreational use are tied to the grant funds. Administrator Bell explained the lack of public forum was appropriate at this point in the multi-phase project. According to Minnesota Statutes, much of the acquisition of the subject LWLP properties, including appraisals and price negotiations, are not public. Since purchase agreements have now been drafted and await City Council approval, this is the first opportunity to publicly disclose details of the project. Phase 2 will bring public engagement on the LWLP.

Councilmembers Dahl, Hanson, and Carlson expressed support for the project and excitement over the opportunity to acquire riverfront property with Department of Natural Resources (DNR) grants, Washington County grants, and privately donated funds totaling \$1,800,000. Discussions were recalled dating back to the 2006 referendum on the LWLP and opinions were united amongst these councilmembers that although public knowledge of purchase negotiations weren't possible due to Minnesota Statues, the project had been discussed at length. Councilmember Hanson cited a May 6 Stillwater Gazette article on the project as an example of public transparency. She also stated that the property for the new Fire Hall was purchased prior to public input on the project in much the same manner as the LWLP.

Councilmember Buckley felt every opportunity was made by city staff to inform and update councilmembers and meeting attendees of the progress in acquiring these grants since 2006 when county taxpayers initially voted to institute these funds. As the custodians of the grant funds, public disclosure was guided and dictated by Washington County direction and legal counsel.

Mayor St. Ores maintained that an opportunity was missed to inform and engage the public on this project while still respecting the confidential nature of property negotiations. She reiterated her request to postpone voting on the purchase agreements until the next regular City Council meeting on June 3, 2019, to allow two weeks for open public discussion of the project. Councilmember Hanson wanted assurances that a two week delay would not compromise the funds and sacrifice the project success. Administrator Bell indicated the homeowners had signed purchase agreements and expected approval at this meeting. After purchase, there is a 60 day due diligence period for environmental site

testing and an archeological survey, which would allow the city to rescind the purchase agreement in light of unanticipated findings. However, City Attorney Pratt recommended against this course of action, citing legal complications.

Mayor St. Ores requested the City Council put forward a motion to accept the meeting agenda as stated.

It was moved by Councilmember Dahl and seconded by Councilmember Buckley to accept the meeting agenda as written. Upon roll call being taken thereon, the following vote via voice:

Susan St. Ores – nay	John Dahl – aye	John Buckley – aye
Connie Carlson – aye	Michele Hanson – aye	

NEW BUSINESS

Consider an appointment for municipal legal services: City Administrator Bell indicated that Andy Pratt, existing City Attorney, is moving to the firm of Best and Flanagan. Staff is recommending that the city continue with Attorney Pratt for civil legal representation at his new firm for a contract term of at least one year. This would allow for continuity on several ongoing city projects. The existing firm Eckberg Lammers would continue to represent the city in criminal matters. Councilmember Hanson confirmed that legal rates would remain the same. Mayor St. Ores felt the continuity of legal representation and familiarity of Attorney Pratt was an asset to the city, but suggested a request for proposal (RFP) be implemented on future legal representation at the conclusion of this one year contract. Mayor St. Ores also queried if combining civil and criminal services with the same firm could lead to cost savings. Administrator Bell confirmed that splitting services is common and there is no price difference.

It was moved by Councilmember Hanson and seconded by Councilmember Carlson to approve a municipal legal services contract with Andy Pratt, Best and Flanagan, for civil matters, effective immediately. Motion carried 5-0.

Consider the purchase of real property for a Land and Water Legacy project with Washington County: City Administrator Bell gave an overview of the project, including history and funding sources. He indicated that purchase agreements had been signed by the owners of the four parcels in question as per City Council direction at the April 1, 2019 meeting. Pending City Council approval, an environmental assessment and archeological survey would be completed within a 4-6 week timeline.

Mayor St. Ores proceeded to open the meeting to public comment.

Phil St. Ores, 345 Lake Street South, is concerned about city liability and legal exposure as a result of accepting the Washington County grant funds. He refers to specific legal contract language that outlines city responsibilities and various milestone dates, including the request for a management plan for the land. He is concerned the city will miss project deadlines and be penalized financially. Mr. St. Ores asked the City Council to delay voting on the LWLP purchase agreements until the city's contractual commitments can be clarified.

June Mathiowetz, Washington County Land and Water Legacy Program, described the LWLP funds and the voter driven mandate to protect high value riverfront natural resources. Ms. Mathiowetz cited a good working relationship between the county and city staff and expressed confidence in the city's ability to meet its contractual obligations.

Dan Goldston, 4 Point Road, raised concerns about loss of tax revenue for the four subject properties and asked if a property tax increase would be necessary to fund the development of the park lands.

Jim Selmecki, 317 Lake Street South, criticized the City Council and staff for lack of public information about the project and asked that bylaws be changed to allow a more open process.

Sara Martin, 380 4th Street South, questioned why public transparency was suddenly an issue. She was aware of the project for some time and thought the issue concluded at the regular April 1, 2019 City Council meeting when city staff was instructed to move forward with purchase agreements for the four parcels of land.

Mayor St. Ores addressed the property owner, saying she was concerned the general public wasn't paying attention to the importance of the issue, even though the project has been publicly discussed at various City Council meetings. Councilmember Carlson stated that City Council's responsibility was to act transparently and make the information available to the public, not to force them to take an interest.

Marti Biegler, 343 Lake Street, raised concerns about the impact of the proposed project on the commercial business located adjacent to the project area.

Jenn Gear, 535 Lakeside Drive, asked about long term costs to sustain the project and wanted more detail on specific development timelines.

Harold Radke, 521 Mariner Drive, suggested that the city has sufficient parks and referred to a proposed DNR public launch to be developed within the City of Oak Park Heights in conjunction with the St. Croix Crossing project. He was concerned about details of the legal contracts and wanted more information about use restrictions and development plans.

It was moved by Councilmember Buckley and seconded by Councilmember Dahl to recess the Special City Council meeting at 6:20 p.m. to allow for a previously scheduled Planning Commission meeting and public hearing. Upon roll call being taken, the following voted via voice:

Susan St. Ores – nay	John Dahl – aye	John Buckley – aye
Connie Carlson – aye	Michele Hanson – aye	

Mayor St. Ores called for order to reconvene the Special City Council meeting at 7:05 p.m.

Robin Ellingson, 515 Lakeside Drive South, asked the individual City Council members what the city's goal was in acquiring the properties. Ms. Ellingson asked the City Council to delay voting on the LWLP purchase agreements until the councilmembers' goals align and the city's contractual commitments can be clarified. She also asked for more detail on the ability of the city to cancel the purchase agreements for the subject properties. Attorney Pratt further expanded on the city's legal obligations once the purchase agreements are signed.

June Mathiowetz approached the City Council to further clarify the city and county LWLP agreement. She stated the agreement requires a completed purchase agreement, a conservation easement, and a management plan. These requirements are standard on purchases involving the Minnesota Land Trust and the Minnesota Trust for Public Land. The management plan must be completed within 18 months and will help the city apply for Conservation Partner Legacy (CPL) funds for property development at a future date. The management plan will detail how the city intends to keep and/or improve on the environment and natural features of the property. The concept plan/drawing included with the grant application is a standard requirement for grant submittal.

Councilmember Dahl called on Administrator Bell to address some of the new issues raised during the open discussion between property owners and the City Council. Administrator Bell clarified the annual loss of tax revenue was approximately \$6,000 and would be more than offset by the LWLP funds being awarded to the city. The primary goal of the project was conservation and city staff did not think the contractual criteria onerous. Administrator Bell regrets that concerns over the process were not brought forward earlier, so as to address issues as they arose. He reiterated that staff did not engage in unethical or illegal behavior and exhibited due diligence throughout the entirety of this project to date. Administrator Bell described the four subject properties as less than ideal for residential development, citing challenging topography, proximity to Andersen Corporation, and lack of city utility services. City staff was approached by these homeowners for a possible development opportunity. Voters decided to allocate LWLP funds for these types of conservation projects some 13 years ago and the city was fortunate to be selected to receive a portion of these funds in this past year. The

Andersen Corporation has agreed to be a private donor on this project. The LWLP may help address security and safety concerns Andersen Corporation has had in the past with the current mix of public and private use near 4th Avenue North, as it relates to the public boat launch and boat trailer parking.

Mayor St. Ores clarified that the loss of tax revenue was in 2019 dollars and stated that legality is considered the minimum standards.

It was moved by Councilmember Dahl and seconded by Councilmember Hanson to approve the purchase of real property for Parcel Identification Nos. 11.029.20.21.0003 and 11.029.20.21.0004 in the amount of \$600,000. Upon roll call being taken, the following voted via voice:

Susan St. Ores – nay	John Dahl – aye	John Buckley – aye
Connie Carlson – aye	Michele Hanson – aye	

It was moved by Councilmember Dahl and seconded by Councilmember Hanson to approve the purchase of real property for Parcel Identification No. 11.029.20.21.0005 in the amount of \$590,000. Upon roll call being taken, the following voted via voice:

Susan St. Ores – nay	John Dahl – aye	John Buckley – aye
Connie Carlson – aye	Michele Hanson – aye	

It was moved by Councilmember Dahl and seconded by Councilmember Hanson to approve the purchase of real property for Parcel Identification No. 11.029.20.21.0006 in the amount of \$595,000. Upon roll call being taken, the following voted via voice:

Susan St. Ores – nay	John Dahl – aye	John Buckley – aye
Connie Carlson – aye	Michele Hanson – aye	

Consider authorization to complete a Phase I Environmental Site Assessment for a Land and Water Legacy project with Washington County: Administrator Bell explained that an Environmental Site Assessment (ESA) is required for all land purchases using county, state, and federal funding. It identifies existing or potential environmental liabilities on the subject properties. Initial cost estimates vary from \$1,800-\$6,000. This is part of the 60 day due diligence process on the purchase agreements. Staff is asking for authorization not to exceed \$6,000 for the ESA.

It was moved by Councilmember Buckley and seconded by Councilmember Carlson to authorize completion of a Phase I Environmental Site Assessment for the LWLP in an amount not to exceed \$6,000. Upon roll call being taken, the following voted via voice:

Susan St. Ores – nay	John Dahl – aye	John Buckley – aye
Connie Carlson – aye	Michele Hanson – aye	

Consider authorization to complete a Phase I Archeological Survey for a Land and Water Legacy project with Washington County: Administrator Bell explained the State Historic Preservation Office must ascertain the presence or absence of archeologically significant features. It is a requirement of state grant funding and part of the city's 60 day due diligence process. Cost estimates for this survey range from \$23,000-\$28,500. Staff is asking for authorization not to exceed \$28,500 for the Archeological Survey.

It was moved by Councilmember Buckley and seconded by Councilmember Hanson to authorize completion of a Phase I Archeological Survey for the LWLP in an amount not to exceed \$28,500. Upon roll call being taken, the following voted via voice:

Susan St. Ores – nay	John Dahl – aye	John Buckley – aye
Connie Carlson – aye	Michele Hanson – aye	

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Buckley to adjourn the meeting at 7:46 p.m. Motion carried 5-0.

City Administrator/Clerk