

CITY OF BAYPORT  
BAYPORT CITY COUNCIL MEETING MINUTES  
BAYPORT CITY COUNCIL CHAMBERS  
AUGUST 4, 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 August 4, 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 Rick Schneider, Councilmembers Jon Nowaczek, Sharon Ridgway, Bob Kamps and Dan Johnson.

Members absent: None.

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

**PROCLAMATIONS/COMMENDATIONS/PETITIONS**

Andersen 100<sup>th</sup> Anniversary – Celebrating 100 Years of Business. Mayor Schneider asked Bob Kamps to read the Proclamation regarding Andersen Windows 100<sup>th</sup> Anniversary. Bob Kamps read the Proclamation.

Dan Johnson moved, seconded by Sharon Ridgway, to approve the Proclamation regarding Andersen Windows' 100<sup>th</sup> Anniversary. Motion passed unanimously.

National Night Out – Proclaiming August 5, 2003 as 20<sup>th</sup> Annual National Night Out. Police Chief John Gannaway read the Proclamation regarding National Night Out in Bayport on August 5, 2003.

Chief Gannaway stated that National Night Out will be starting at 6:00 p.m. until dusk and invited everyone to attend.

Dan Johnson moved, seconded by Jon Nowaczek, to approve the Proclamation designating Tuesday, August 5, 2003 as the National Night Out in the City of Bayport. Motion passed unanimously.

Safe & Sober Presentation. Police Chief John Gannaway introduced Bob O'Brien and Tina Holt from Minnesota Safe & Sober.

Tina Holt and Bob O'Brien discussed what their organization is and what they do. Bob O'Brien explained the new radar equipment that the City of Bayport is receiving.

Mayor Schneider asked Chief Gannaway to explain what exactly the City is receiving. Chief Gannaway stated it's a hand held radar – state of the art technology.

Dan Johnson read the Resolution Authorizing Execution of Agreement between the Bayport Police Department and the Minnesota Department of Public Safety to authorize Officer Jay Jackson to execute agreements and amendments as are necessary to implement the project on behalf of the Bayport Police Department and be the fiscal agent and administer the grant. Dan Johnson moved, seconded by Jon Nowaczek, to approve the resolution. Motion passed unanimously.

## **OPEN FORUM**

Mayor Schneider discussed the fact that there was a dead crow found in Bayport and if anyone finds any sickly or dead crows, the State of Minnesota does want to know about them.

Chief Gannaway stated that the State is very confident that West Nile is present in Washington County but stressed several times that the risk is extremely low. The median age for contracting it is 73 years old and Chief Gannaway urged senior citizens to use extra precautions.

Dick Beberg stated he has many crows around his house and asked if there was a way to get rid of them. Mayor Schneider asked Chief Gannaway to look into that issue.

Mayor Schneider stated that the water contaminant was mentioned in the last Council meeting – it's a trace amount, the water is very safe and it will be monitored on a quarterly basis.

Ron Shelton stated a concern regarding the geese in Lakeside Park and inquired if anything could be done about it.

## **CONSENT AGENDA**

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

Mayor Schneider stated he would like to remove item number 2 (Resolution hiring David Wulfing to fill vacant full-time Police Department position) and add it as number 5 under new business.

Councilmember Johnson introduced the following resolution and moved its adoption with the exception of number 2:

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
RESOLUTION #03-56 APPROVING CONSENT AGENDA ITEMS A, B, C, AND D  
FROM THE AUGUST 4, 2003 COUNCIL AGENDA.**

The motion for adopting the foregoing Resolution was duly seconded by Councilmember Kamps 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

**PUBLIC HEARINGS**

Vacation of 4<sup>th</sup> Avenue North. Barry Peters showed a drawing of the area surrounding 4<sup>th</sup> Avenue North and explained that a vacation of ten feet of right-of-way on either side of 4<sup>th</sup> Avenue; 4<sup>th</sup> Avenue right now is platted as an 80-foot right-of-way. Barry Peters explained the history of the city street. On June 19, 1923, the City Council took action to vacate ten feet on either side of 4<sup>th</sup> Avenue but the paperwork was never filed with the County so the vacation was not complete. Barry Peters stated that if the Council wanted to complete what was started in 1923 there is a resolution in the packet to vacate ten feet of either side of 4<sup>th</sup> Avenue North. There is no loss of property for anyone but the City, the ten feet would go to abutting property owners on each side. Barry Peters stated he did not have a recommendation either way on vacating that portion of 4<sup>th</sup> Avenue.

Further discussion regarding the vacation of 4<sup>th</sup> Avenue and the effects of the minor subdivision to be discussed later in the meeting.

Councilmember Nowaczek introduced the following resolution and moved its adoption:

**Res. 03-57**

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA,  
VACATING 10-FEET EACH SIDE OF FOURTH AVENUE NORTH (FORMERLY  
SECRET STREET), LYING BETWEEN MAINE STREET NORTH AND THIRD  
STREET NORTH, IN THE CITY OF BAYPORT, WASHINGTON COUNTY,  
MINNESOTA.**

The motion for adopting the foregoing resolution was duly seconded by Councilmember Johnson 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

Sharon Ridgway stated she voted in favor of the vacation only because she thought she should follow through with what the City wanted to do years ago, otherwise she would never vacate this land for this reason.

## **COUNCIL LIAISON REPORTS**

Sharon Ridgway stated there was not a Cable Commission meeting, so she has no report.

Jon Nowaczek stated that the Library Board met the previous Thursday and discussed the budget for the upcoming fiscal year. Kathy MacDonald and her staff put together a budget that is trying to “hold the line” and is almost identical to the 2003 fiscal budget. Jon Nowaczek stated that since 1999 circulation at the Library has doubled so the Library is doing well.

Dan Johnson stated that he is the City’s delegate to the Lower St. Croix Partnership, which advises the DNR’s and the Park Service. Dan Johnson further stated they will be holding a meeting on Wednesday, August 13, 2003 in Hudson, Wisconsin; if anyone has any issues with the DNR or National Park Service, he can bring them up at the meeting.

Bob Kamps stated he worked overtime and did not attend the Watershed Commission and has not seen the minutes as of yet. Bob Kamps further stated that the meeting with the Andersen people was cancelled for July 31<sup>st</sup>, so no reports at this time.

## **CITY CONSULTANT REPORTS**

1. City Attorney Report – Attorney Tim Kelley stated that, since the City will discuss adopting the 2 A.M. bar closing, in the future the City may want to review the license fees it is currently charging on-sale liquor license holders to determine if the City should consider increasing those fees. If the Council were in favor of increasing fees, they would need to notify all license holders and hold a public hearing.

Attorney Tim Kelley stated that the City is at its maximum for on license fees per statute; the City is only permitted to issue five on-sale licenses. Tim Kelley discussed the options the City has if they receive a new application for a liquor license.

2. City Engineer Report – Nothing that isn’t on agenda.
3. City Planner Report –

Slattery Minor Subdivision. Mike Darrow stated that this issue is for subdivision only – any additions or modifications to this new proposed lot will require a site plan and approval, grading plan, utility plan, etc. The applicant is proposing to move a garage which will require a moving and building permit prior to approval.

Mike Darrow stated this issue was brought to the Planning Commission in July and passed by a 4-0 vote. Mike and Nancy Slattery have submitted an application for a minor subdivision – parcel one is 12,101 square feet, parcel two is 12,067 square feet.

Staff recommends the following:

- ❖ The address of the structure shall be addressed off of 4<sup>th</sup> Avenue North; approval of the address shall be registered with the City of Bayport and Postal Service.
- ❖ The moving of the garage shall require moving and building permit.
- ❖ The applicant shall identify any trees which may be damaged or destroyed as a result of moving the garage. A tree replacement plan is subject to the review and approval of City staff.
- ❖ All new construction on the new lot shall require a site plan approval.
- ❖ A grading, erosion control and utility plan shall be subject to the review and approval of the City Engineer.
- ❖ The applicant shall be required to submit to the City of Bayport a minor subdivision park dedication fee of \$400.
- ❖ Approval of the minor subdivision shall be recorded with Washington County upon approval by the City of Bayport.
- ❖ Any alterations, additions or modifications to the submitted survey dated June 20<sup>th</sup>, 2003 shall require approval by the Planning Commission and City Council.

Mayor Schneider stated that the lot is large enough to sub-divide and the petitioner has the right to do the subdivision.

Discussion regarding lot lines and structure location.

Mary Jo Vene, 439 2<sup>nd</sup> Street North, stated she was in the process of buying the house in question and started that process before she was aware of the garage being moved and is concerned about where the garage will be placed since the house is so close to the property line.

Bob Kamps stated to Mary Jo Vene that under normal circumstances there would be ten feet on her side, ten feet on the other side, but in this instance, if the garage was placed within ten feet she would be looking at the side of a garage. There would only be ten feet instead of twenty feet.

Nancy Slattery stated they didn't decide where the garage would be until now but it would definitely be within the setbacks, Jim Butler stated it had to be ten feet.

Further discussion regarding lot lines and setback requirements.

Bayport City Council Meeting Minutes  
August 4, 2003

Councilmember Johnson moved to approve the Resolution and the Draft Findings of Fact in support of the resolution to approve the minor subdivision of Lots 1, 2 and 3 of Block 43, subject to all of the conditions prepared in the draft resolution.

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

Hayner Lot Line Adjustment. Mike Darrow stated that Mr. Robert Hayner recommended a lot line adjustment. Mike Darrow read a letter submitted to him from Mr. Hayner just prior to the meeting and stated he and Mr. Bell have come to an agreement regarding the property lines.

Mike Darrow stated that this is an administrative process and the Council is recommending approval to stamp for Washington County recording of this issue.

Jon Nowaczek moved, seconded by Sharon Ridgway, to approve the minor subdivision as requested in option 1, adjusting the lot lines of the Hayner and Bell properties. Motion passed unanimously.

Moving Permit Discussion. Mike Darrow read the moving permit requirements, researched some other cities and provided a list of 12 recommendations to the Planning Commission. Mike Darrow discussed the questions that the Planning Commission had on this issue and stated the next step to move forward would be to prepare a resolution for Council approval at the next Council meeting.

Mayor Schneider stated he agreed with the 12 recommendations and the Council should direct staff to prepare a resolution.

Bob Kamps inquired if the City should be reimbursed for the police and public works time in supervising the moving of the structure. Mike Darrow stated that the applicant should pay through the application fee.

Attorney Tim Kelley stated the allocation fee should reflect the actual cost incurred by the City – it should be considered when basing the fee for the permit.

Discussion regarding the ordinance wording of moving structures “within” or “into” the city limits.

Regarding the permits, Dan Johnson suggested that a public hearing go through the Planning Commission and then to Council for approval of the permit so people can have a forum to address their concerns.

Bob Kamps stated that a resident had contacted him regarding the zoning map being out of date. Mike McGuire stated there is sufficient money in the 2003 budget to cover the costs of updating the map and it is being worked on.

Announcements. Mike Darrow stated that he asked the DNR to attend the August 11, 2003 Planning Commission meeting and would like to invite the Council to attend. The purpose of the meeting is to go over the shoreland/bluffland and flood plain issues; the DNR to give a talk on the boundaries and answer any questions regarding the requirements that they have. The City hasn't had a review in some time.

Mike Darrow also stated that there is another workshop with the residents and business owners on 5<sup>th</sup> Avenue – parking has been a concern for some of the businesses. Some of the businesses are expanding their businesses which will require the possible need for future parking. One of the concerns is that there is overflow parking in some of the residential neighborhoods with activities at the Library. Mike Darrow stated his office prepared a concept plan for the area and will be presenting it as a concept to those business owners on Monday.

## **UNFINISHED BUSINESS**

Sale of City Property on 2<sup>nd</sup> Avenue. Mike McGuire stated that the appraisal for the property was to have been completed by the 30<sup>th</sup>, but was not received until today, the City will try to negotiate with Ron Shelton over the next couple of weeks and bring it to Council in September.

Montanari Property – 575-595 Lakeside Drive. Mike McGuire stated that Tim Kelley and himself had attended a meeting with the Core of Engineers, Watershed and Mr. Montanari and Mr. Montanari's landscape engineer. Mike McGuire stated that some of the questions were answered, but are waiting for some additional information.

Dan Johnson moved, seconded by Jon Nowaczek, to continue the Sale of City Property on 2<sup>nd</sup> Avenue and Montanari property issue until the September Council meeting. Motion passed unanimously.

Bayport Community Survey. Mike McGuire stated that the Council should look at the questions and make any changes; Homer Tompkins sent a memo regarding his thoughts on the survey questions.

Dan Johnson discussed the meeting that the Council had with Diane Herman regarding coming up with survey questions and read some questions from the draft survey.

Homer Tompkins stated that he knows it is the intent of the survey to be very fair and very supportive and not leaning for or against development. Homer Tompkins made some comments and suggestions regarding some of the survey questions.

Homer Tompkins further discussed a possible development of a lower number of homes of higher value.

Further discussion regarding quantity and value of potential developments.

Mayor Schneider stated that the survey was needed to find out what the residents of Bayport want for the land.

Jon Nowaczek stated that the Council wants to get the survey done in a timely manner, but feels that the survey is too short – some important topics are not included (City's budget and services that are important to people). Questions regarding the development and quality of life in the City should be included.

Mike McGuire stated that Diane Herman has very strong feelings that if the survey goes over 12-14 minutes, the majority of people will not stay on the phone, even if they are passionate about the subject. Discussion regarding the option of the City buying the property.

Further discussion on the survey questions.

Discussion regarding having a special meeting to review and approve the updated version of the survey.

Jon Nowaczek moved, seconded by Dan Johnson, to continue the discussion regarding the survey on August 11, 2003 at 6:00 p.m. Motion passed unanimously.

## **NEW BUSINESS**

Approve People's Congregational Church New Labyrinth Sign to Indicate Location Within Barkers' Alps. Judith Hansen, representing People's Church, stated that a Labyrinth was created in 2001 adjacent to Barker's Alps, there is a garden surrounding that and now would like to open it to the public. It is not very visible and its only access is a service road right now – this is a request for a temporary sign until the service road can be developed.

Jon Nowaczek stated that his family thinks the Labyrinth is a delightful addition to the park and thanked them for doing that.

Mike Darrow stated that after reviewing Section 727.07, it is his opinion that the sign is considered public because of the location within the City park, therefore the private sign would not be permitted under Section 727.07.

Dan Johnson asked for clarification. Mike Darrow stated that the People's Church sign would be prohibited because that would be a private church sign attached to a public sign that the City owns. Mike Darrow displayed a picture of the site and the proposed signs.

Bayport City Council Meeting Minutes  
August 4, 2003

Mike Darrow stated that the Barker's Alps sign is a public sign because its within the park; under Section 727.07 private signs would not be permitted in or on a public sign. Mike Darrow recommended putting a sign on the Church's property indicating where the Labyrinth is located.

Dan Johnson stated he would like to see is something added to the sign saying that the park is owned by the City of Bayport and then a directional sign that says "To the Labyrinth" without designation of who it belongs to or endorsing any religious organization.

Judith Hansen suggested modifying it to say "Community Labyrinth and Community Garden."

Mike Darrow stated that if the City wanted to incorporate the private sign and make it into part of the public sign, it would not be an issue.

Mayor Schneider stated that it's a great idea and the City should do that. Dan Johnson stated the City should pay for it. Judith Hansen stated they were just hoping for approval and they would pay for the sign.

Dan Johnson proposed a resolution authorizing the City Administrator to have the Parks Department create some signage at Barker's Alps to designate it as a public park and give directional signs to the Labyrinth without designating People's Congregational Church at the entrance and also erect a sign at the Labyrinth itself to recognize the great work that the volunteers from the People's Church have done and have that sign erected at the City's expense. Jon Nowaczek seconded the motion.

Mayor Schneider suggested amending the motion to direct City staff to work with Judith and her garden committee.

Dan Johnson stated he would amend his motion to say that the City Administrator shall work with the Parks Department and the volunteers who have committed time to the park including the People's Congregational Church. Jon Nowaczek seconded the amended motion. Motion passed unanimously.

Approve Bayport Fire Department Pager Purchase From Ancom Communications Not to Exceed \$7,812.23. Fire Chief Mike Bell stated that this is a budget item for 2003 needing approval and the fire department is putting some donated money from the dance towards this purchase as well.

Sharon Ridgway moved, seconded by Jon Nowaczek, to approve the purchase of new pagers not to exceed \$7,812.23. Motion passed unanimously.

Adopt Ordinance Changes to Approve 2 A.M. Bar Establishment Closing. Mayor Schneider stated this was discussed and he didn't have a problem with it.

Discussion regarding Sunday hours.

Sharon Ridgway moved, seconded by Bob Kamps, that the City of Bayport amend the ordinance to comply with the state statute on the closing of liquor establishments.

Upon roll call being taken, the following voted via voice:

Bob Kamps – aye	Jon Nowaczek – aye
Dan Johnson – aye	Sharon Ridgway – aye
Rick Schneider – aye	

Approve Summary of Subdivision Ordinance for Publication. Mike McGuire stated this should be done to have it current at this time – when the ordinances are codified it would be covered. Most cities publish a summary version of the ordinance because to publish the whole ordinance can be very expensive.

Attorney Tim Kelley stated that approving a Summary requires a four-fifths vote.

Jon Nowaczek moved, seconded by Dan Johnson, to submit the amended subdivision ordinance for publication.

Upon roll call being taken, the following voted via voice:

Bob Kamps – aye	Jon Nowaczek – aye
Dan Johnson – aye	Sharon Ridgway – aye
Rick Schneider – aye	

Approve Resolution Hiring David Wulfing to Fill Vacant Full-Time Police Department Position. Mayor Schneider stated that maybe a question could be added to the survey whether the City of Bayport and the residents would like to have 24x7 police coverage.

Mayor Schneider stated that there were a lot of residents that felt the \$575,000 spent on police protection is more than necessary; but to fill this position it will save \$13,000 from the present budget.

Further discussion regarding future budgets and full-time and part-time police protection.

Councilmember Nowaczek introduced the following resolution and moved its adoption:

**Res. 03-59**

**RESOLUTION, CITY OF BAYPORT, WASHINGTON COUNTY,  
MINNESOTA, APPOINTING DAVID WULFING AS A POLICE OFFICER  
WITH THE CITY OF BAYPORT’S POLICE DEPARTMENT EFFECTIVE  
AUGUST 19, 2003.**

Bayport City Council Meeting Minutes  
August 4, 2003

The motion for adopting the foregoing Resolution was duly seconded by Councilmember Ridgway 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

## **COMMUNICATIONS/REQUESTS**

Bob Kamps requested having the recycling award letters put under the Commendations section so people know that the City is looking for the recycling.

Bob Kamps stated that the Construction Zone letter regarding Lake Street was a very good idea to keep people updated.

Bob Kamps stated that Mel Horak has the money budgeted for the pipe in the hockey rink for water hydrants. Mayor Schneider stated that that was not budgeted but to direct staff to look into it. Mike McGuire stated it was not budgeted, but there is money to do it internally.

Sharon Ridgway inquired as to the sanitary condition and the safety of water fountains. She would like to see water at the rink, but not sure about the ordinance on water fountains.

Mike McGuire stated the budget is coming along and he is meeting with all of the department heads in the next two days and will have the budget to the Council within the next week after that.

## **COUNCIL REQUEST ITEMS**

### **STAFF REPORTS**

### **ADJOURN**

Councilmember Johnson moved, seconded by Councilmember Ridgway, to adjourn the meeting at 9:45 p.m. Motion passed unanimously.

Respectfully submitted,

Mike McGuire  
City Administrator