

**CITY OF BAYPORT
CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS
FEBRUARY 6, 2023
6:00 P.M.**

REGULAR MEETING

6:00 P.M.

CALL TO ORDER

Pursuant to due call and notice, Mayor Hanson called the regular City Council meeting to order and asked Councilmembers, staff, and the audience to join in pledging allegiance to the American Flag.

ROLL CALL

Members present: Mayor Hanson and Councilmembers Connie Carlson, John Dahl, Ethan Gilmore and Katie Hill

Staff present: Interim City Administrator Matt Kline, Assistant City Administrator/Planner Sara Taylor, Fire Chief Allen Eisinger, Sergeant Jay Jackson, and City Attorney Christina Benson

APPROVAL OF AGENDA

Interim Administrator Kline requested that Police and Fire Department staff reports be presented prior to the Consent Agenda, due to schedule conflicts. It was moved by Mayor Hanson and seconded by Councilmember Dahl to approve the agenda as amended. Motion carried 5-0.

PROCLAMATIONS, COMMENDATIONS, PETITIONS, ANNOUNCEMENTS

Mayor Hanson noted the January recycling award recipient is Daniel Franzmeier at 502 2nd Street North who will be awarded for recycling efforts with a grant from Washington County.

POLICE AND FIRE DEPARTMENT REPORTS

Sergeant Jackson reported on call volume, staff training, and the department's participation in past/upcoming events. He also provided an update on the K-9 program, noting the department is searching for a dog to be matched with Officer Cornell in the near future.

Chief Eisinger reported on call volume, staff training, and the department's participation in past/upcoming meetings. He reminded residents to clear the snow out around fire hydrants for the safety of the community.

OPEN FORUM

There were no public comments.

CONSENT AGENDA

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 23-02

**A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-9 FROM THE
FEBRUARY 6, 2023 CITY COUNCIL AGENDA**

Consider a resolution adopting items 1 through 9

1. January 9, 2023 City Council workshop minutes
2. January 9, 2023 City Council regular meeting minutes
3. January payables and receipts
4. January building, plumbing, mechanical, and zoning permits report
5. Special event application from Andersen Corporation for a picnic on August 11-12, 2023 at Lakeside Park
6. Special event application from KinniCroix Girl Scouts for twilight camp on August 17-20, 2023 at Lakeside Park
7. Special event application from Run Stillwater for the Lift Bridge Road Race on June 24, 2023
8. Accept monetary donation from Afton-Bayport-Lakeland Lions Club for the Centennial Park Pavilion
9. Award quote for 2023 sidewalk cutting project

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

Michele Hanson - aye
John Dahl - aye

Connie Carlson- aye
Ethan Gilmore - aye

Katie Hill - aye

PUBLIC HEARINGS

There were no public hearings.

UNFINISHED BUSINESS

1. Discuss results of the intersection review and traffic control analysis completed by SEH: Interim Administrator Kline noted that a traffic control analysis for the intersections of 5th St. N. / 1st Ave. N. and 3rd St. S. / 2nd Ave. S. was recently completed by SEH. The analysis was based on the criteria of traffic volume, crash data, vehicle speed, and sight distance, which were evaluated to determine if factors warrant traffic control at the intersections. The traffic volume was primarily unchanged for both intersections from 2021 to 2022. Crash rates for the 5th St. N. / 1st Ave. N. intersection exceeded the MnDOT average, but crash rates for the 3rd St. S. / 2nd Ave. S. did not. When comparing vehicle speeds, they were relatively unchanged for the 3rd St. S. / 2nd Ave. S. intersection, while the 5th St. N. / 1st Ave. N. speed rates increased. The vehicle speeds have minimal impact on the traffic control determination and are primarily factored in with the sight line analysis. Sight distance issues were identified at both intersection locations. Based on the engineering study that considered the factors and warrants for the intersections, SEH supported the installation of stop signs on the 1st Ave. N approaches to 5th St. N. and replacement of yield signs with stop signs on the 2nd Ave. S. approaches to 3rd St. S. Traffic control measures would be installed when feasible. Yield signs would be replaced when stop signs are available for delivery. Stop signs at the 5th St. N. / 1st Ave. N. intersection would not be installed until spring. Staff recommended the City Council accept the intersection review and traffic control analysis and proceed with the installation of traffic control measures. Discussion followed on the results of the analysis and it was the consensus of the City Council that the intersection of 5th St. N. / 4th Ave. N. would also benefit from a review by the City Engineer to determine if additional traffic control was warranted.

It was moved by Councilmember Dahl and seconded by Councilmember Gilmore to accept the intersection review and traffic control analysis completed by SEH and proceed with the installation of the traffic control measures, as presented.

NEW BUSINESS

1. Consider an application submitted by Nathan Jespersen for variances to allow an expansion of the existing substandard single-family home at 317 Lake Street South: Planner Taylor noted that the applicant purchased the property in 2022, which consists of a 3-story single family house and attached garage. The property is zoned R-2 single family urban and is also located within the Lower St. Croix River Shoreland and Bluffland and Floodplain Management areas. The existing house is considered substandard because it does not meet the required 100 foot setback from the ordinary high water mark, 40 foot setback from slopes greater than 12%, or 20% maximum impervious coverage as required by city ordinance. Section 601.03 of the Lower St. Croix River Shoreland and Bluffland ordinance allows for certain exceptions to setbacks, but stipulates that subsequent expansion or alteration to existing substandard structures shall only be allowed laterally (parallel) or landward to the river and shall not include alterations to the roof line of the structure.

Planner Taylor reviewed the history of the property, noting variances were granted in 2002 to allow for the house to be reconstructed and elevated on fill at the existing setback from the river. In this case, compliance with flood protection regulations were considered paramount over riverway setback regulations. However, these variances did not set precedent for allowing future expansion of the structure further into the setback, toward the river, or in roofline, as proposed by the applicant. Planner Taylor proceeded to review state statute criteria which stipulates that variances shall only be permitted when the applicant establishes that there are practical difficulties in complying with the ordinance. "Practical difficulties" is a legal standard which includes a three factor test that the city must apply to all variance requests. To constitute practical difficulties, all three factors of the test must be satisfied, including reasonableness, uniqueness, and character.

Specific details of the proposed north addition were outlined by Planner Taylor, which included removing the exterior stairwell to the 2nd floor and creating a new enclosed entry to the 1st floor of the house. She explained that the proposed addition is reasonable and will facilitate more practical and efficient accessibility. The addition will consist of a lateral expansion of the house, which is permitted by the ordinance and it will comply with required setbacks from the river and north side yard property line. Impervious coverage resulting from the addition will be mitigated elsewhere on the property and a raingarden will be installed to address stormwater drainage and infiltration, both of which will be an improvement over the existing conditions.

Planner Taylor summarized the details of the east addition, which included extending the 3rd floor toward the river to meet the front building line of the 1st and 2nd floors to create additional living space. Applying the three factor test to the variance, Planner Taylor went on to explain that while the applicant may be seeking additional living/bedroom area to better suite his family, the location of the proposed expansion on the 3rd floor is not necessary to make reasonable use of the existing house. Here, the property is already in use as a single-family residential home and the desire to expand that use for a larger home is not necessary to allow a reasonable use. The applicant has expressed challenges with a lack of suitable living space on the 3rd floor. While these conditions may not be ideal for the applicant's family, they were existing when he purchased the home. No physical characteristics or features of this land parcel are unique when compared to other lots and/or homes on Lake St., only personal characteristics and preferences of the property owner. The applicant acknowledged he was aware that riverway ordinance restrictions would likely be a factor if pursuing structural alterations, but again, characteristics do not exist that are unique to the land to warrant a variance. Currently, the neighborhood consists of 1-story and 2-story homes. As a 3-story, this home is already distinct in scale when compared to other surrounding homes. Further expansion of the 3rd floor and modification of the roofline would suggest added departure from the character of the neighborhood and result in an increased riverward building face.

Planner Taylor concluded with a recommendation of support for the north addition, but lack of support for the east addition based on the findings of fact outlined in the staff report. She summarized a review memo provided by the Department of Natural Resources (DNR) concurring with staff's recommendation on the variance requests. The Planning Commission held a public hearing on the application on December 19 at which time they recommended approval 5-0 for the proposed north addition, subject to the findings of fact and conditions of approval suggested by staff. A formal motion to deny the proposed east addition was considered, but the motion to deny failed by a vote of 2-3. Those that voted nay for the denial expressed support for the east addition, but there was no formal motion made by the Planning Commission to recommend approval to the City Council.

Attorney Benson reiterated state statute requirements that the City Council must apply when considering a variance application. Discussion followed on the proposed additions and whether criteria was met to justify the granting of the variances. Overall, the consensus was consistent with staff's findings of fact and recommendation to approve the variances associated with the north 1st floor entry addition. However, the City Council expressed a lack of consensus on whether the east addition met the variance criteria and differing levels of concern for the proposed hypothetical lateral expansion presented by the applicant. Discussion continued on the spirit and intent of the ordinance when applied to the east expansion and visual impact it would have when viewed from the river. Attorney Benson restated the statute criteria and noted that findings of fact must be articulated for the City Council to support the east addition. She also recapped the DNR's position regarding further encroachment of the structure toward the river and lack of support of the east addition. Planner Taylor noted that the city has adopted the DNR's model ordinance to regulate development and setbacks within the riverway and reiterated the importance of applying the same principles consistently to all properties.

Mayor Hanson called on property owners Nathan and Sara Jespersen to comment on the variance application and field questions from the City Council. Discussion followed on the proposed east addition and difficulty with meeting state statute criteria to justify the requested variance.

Councilmember Gilmore introduced the following resolution and moved its adoption:

Resolution 23-03

A RESOLUTION APPROVING SETBACK AND IMPERVIOUS COVERAGE VARIANCES FOR A NORTH ADDITION TO THE EXISTING SUBSTANDARD SINGLE FAMILY HOME LOCATED AT 317 LAKE STREET SOUTH, BAYPORT, WASHINGTON COUNTY, MINNESOTA

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

Michele Hanson - aye
John Dahl - aye

Connie Carlson- aye
Ethan Gilmore - aye

Katie Hill - aye

Following further discussion, and a lack of consensus on whether the east addition met the variance criteria, it was moved by Councilmember Dahl and seconded by Councilmember Carlson to table further discussion and upon roll call being taken thereon, motion carried 5-0.

2. Consider a resolution proclaiming “No Mow May” for 2023: Interim Administrator Kline provided background on the program, noting it is a voluntary community initiative that encourages property owners to limit lawn mowing during the month of May to provide early season foraging resources for pollinators. He explained that residents choosing to participate would need to register with the city and post designated signage to prevent potential nuisance complaints. If approved by the City Council, the program would be highlighted via the city’s newsletter, website, and social media.

Councilmember Carlson introduced the following resolution and moved its adoption:

Resolution 23-04

A RESOLUTION PROCLAIMING “NO MOW MAY” FOR 2023

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

Michele Hanson - aye
John Dahl - aye

Connie Carlson- aye
Ethan Gilmore - aye

Katie Hill - aye

CITY COUNCIL LIAISON REPORTS

Councilmember Carlson reported on the recent Library Board meeting, where the library remodel project continues to progress as scheduled and is anticipated to reopen late February. She noted that the Library plans to have programs again this season at the Farmer’s Market.

Councilmember Dahl reported on the Middle St. Croix Watershed meeting, which included discussion on the budget and the city’s upcoming dues.

Councilmember Hill reported on the Bayport Community Action League meeting, which included discussion on efforts to acquire insurance for community events and securing a band for the Derby Day’s Street Dance scheduled for September 16 in Perro Park.

CITY ADMINISTRATION REPORTS

Assistant City Administrator/Planner Taylor reported that the winter edition of the city’s e-newsletter was distributed at the end of January. She also reported that the city received a formal annexation petition and concept development plan for approximately 26 acres of land located along Stagecoach Trail, just north of Inspiration in Baytown. The concept plan proposed is a residential planned unit development consisting of 50 single family lots. A joint City Council and Planning Commission meeting has been scheduled for February 27 to consider the proposal.

Interim Administrator Kline reported on efforts to purchase a replacement truck for the Public Works Department and a Financial Management Plan/Rate Study planned for this spring. The Department of Corrections has accepted the terms of the old Fire Hall lease agreement and it will be presented at the March meeting.

COUNCIL ITEMS AND ANNOUNCEMENTS

There were no comments.

ADJOURNMENT

It was moved by Councilmember Carlson and seconded by Councilmember Gilmore to adjourn the meeting at 7:47 p.m. Motion carried 5-0.

Interim City Administrator/Clerk