

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
JUNE 5, 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: City Administrator Matt Kline, Assistant City Administrator/Planner Sara Taylor, Fire Chief Allen Eisinger, Police Chief Laura Eastman, City Attorney Eric Larson, and City Engineer John Parotti

**APPROVAL OF AGENDA**

It was moved by Councilmember Hill and seconded by Councilmember Gilmore to approve the agenda. Motion carried 5-0.

**PROCLAMATIONS, COMMENDATIONS, PETITIONS, ANNOUNCEMENTS**

Mayor Hanson noted the May recycling award recipient is Kevin Hallen at 349 3<sup>rd</sup> Avenue South who will be awarded for recycling efforts with a grant made possible by Washington County. She then recognized Dan and Kit Ridgway and Dan and Ginny Peulen for their volunteer landscaping and garden maintenance efforts on city grounds. Mayor Hanson stated there will be a public forum on June 21 at the Bayport Library to share information about the future of Andersen Elementary School.

**OPEN FORUM**

Executive Director Mike Huntley of Youth Service Bureau spoke on the services they provide and the importance of the annual financial support of \$1,600 they receive from the city.

Brennan Swanson introduced himself as the new business owner of 397 5<sup>th</sup> Avenue North.

**CONSENT AGENDA**

Councilmember Carlson introduced the following resolution and moved its adoption:

**Resolution 23-10**

**A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-8 FROM THE  
JUNE 5, 2023 CITY COUNCIL AGENDA**

1. May 1, 2023 City Council workshop minutes
2. May 1, 2023 City Council regular meeting minutes
3. May payables and receipts
4. May building, plumbing, mechanical, and zoning permits report
5. Renewal of building inspection service agreement with MNSPECT
6. Award quote for 2023 seal coat project
7. Award quote for storm damage tree services
8. Application for on-sale, Sunday, and off-sale liquor licenses from Bells Kitchen LLC for operations at 193 3<sup>rd</sup> St. N.

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

Michele Hanson - aye  
Ethan Gilmore - aye

Connie Carlson - aye  
Katie Hill - aye

John Dahl - aye

## **PUBLIC HEARINGS**

1. Overview of the city's Municipal Separate Storm Sewer System (MS4) program materials and annual report: Administrator Kline reviewed the National Pollutant Discharge Elimination System (NPDES) General Permit for the MS4. He noted a major component of the permit was the Stormwater Pollution Prevention Plan (SWPPP), which consists of best management practices (BMPs) and standard operating procedures (SOPs) that work toward the management, operation, and maintenance of the storm sewer system to minimize the discharge of pollutants. The six minimum control measure (MCM) components included within the SWPP are Public Education and Outreach (MCM 1), Public Participation and Involvement (MCM 2), Illicit Discharge Detection and Elimination Program (MCM 3), Construction Site Stormwater Management (MCM 4), Post Construction Stormwater Management (MCM 5), Municipal Operations BMP and SOP Manual (MCM 6). This year includes added requirements after the general permit was reissued in 2020 with enforcement starting in 2022. Administrator Kline stated that normally there is an annual report submitted prior to July to be compliant with the NPDES permit, however, the MPCA is currently revamping the online submittal for the annual report and will require two reports to be submitted next summer. The MPCA is still requiring an annual hearing to allow public comment on the plan which is available upon request from City Hall. No written public comments have been received to date.

## **UNFINISHED BUSINESS**

There was no unfinished business.

## **NEW BUSINESS**

1. Consider a variance appeal of Resolution 23-06 for 317 Lake Street South: Attorney Larson presented the appeal of the condition of the east addition variance which requires removal of the existing boathouse on the property. He outlined various options the City Council could consider in response to the appeal, including (1) the City Council may deny the appeal, meaning that the variance, as conditioned, remains in full force and effect; (2) the City Council may grant the appeal, which would remove the identified condition from the variance; or (3) the City Council may grant in part and deny in part your variance appeal. Following the presentation by Attorney Larson, applicant Nathan Jespersen and his legal counsel Jacob Steen were provided the opportunity to comment on the appeal. Discussion followed on the condition of the existing boathouse and the potential for setting precedence if the City Council granted the appeal and allowed the boathouse to remain. A majority of the City Council expressed varying levels of support for the appeal, with the exception of Councilmember Dahl, who expressed support for upholding the City Council's initial conditions of approval related to the east variance.

It was moved by Councilmember Gilmore and seconded by Councilmember Carlson to approve the appeal and upon roll call being taken thereon, the following vote via voice:

Michele Hanson - aye  
John Dahl - nay

Connie Carlson - aye  
Katie Hill - aye

Ethan Gilmore - aye

2. Consider amendments to Appendix E - Floodplain Management of the Bayport City Code of Ordinances: Planner Taylor noted the Floodplain Management Ordinance is considered an overlay ordinance that applies to properties located within the boundaries of the Floodway and Flood Fringe Districts of the St. Croix River, which are established by FEMA and administered by local communities and the DNR. The purpose of this ordinance is to identify a reasonable method of analyzing flood hazards and to establish provisions to minimize potential loss of property and extraordinary public expenditures due to flooding. In order to participate in the National Flood Insurance Program, which offers flood and federal disaster insurance to all property owners, the city is required to adopt a Floodplain Management Ordinance and subsequent updates.

Planner Taylor noted that a majority of the text included in the ordinance update has been prepared by the DNR and is required to be adopted to comply with the flood insurance program. Other amendments that have been incorporated are intended to eliminate confusing concepts, clarify permit requirements, assist with substantial damage or improvement determinations, and ensure consistency amongst state rules, federal regulations, and FEMA policy. She noted a few sections of the ordinance are optional for communities to adopt. However, because these sections are intended to minimize public risk in the event of a flood and help clarify and provide guidance to staff on how to administer certain provisions, staff feels it would be beneficial for the city to adopt these sections.

Planner Taylor noted that the Planning Commission held a public hearing on the ordinance amendments on May 22. No public comments were heard and the Planning Commission recommended approval to the City Council 5-0. Administrator Kline followed by addressing public comments submitted since the City Council agenda packet was posted and noted they will be included in the meeting record.

Mayor Hanson acknowledged several residents in attendance regarding this topic and invited them to comment.

Chris Hayner, 11 Point Road, voiced concern regarding potential elevation changes to floodplain boundaries that may impact his property.

Jane Keyes, 385 Lake Street, and Phil St. Ores, 345 Lake Street, inquired about the notification process for the ordinance update.

Patrick McGann, 19 Point Road, voiced concern over additional restrictions that might limit his ability to manage the erosion of his property and keep it safe.

Kris Krengel, 18 Point Road, and Gregg Ellingson, 515 Lakeside Drive, inquired how the proposed changes compare to the existing ordinance.

Jodi Defiel, 307 Lake Street, suggested the City Council table the discussion so residents could have a chance to review the proposed ordinance amendments in further detail.

Matt Bauman, DNR Floodplain and Shoreland Planner, addressed the elevation concerns raised by Chris Hayner and Patrick McGann. He noted that although a specific elevation is not included in the existing ordinance for flood boundaries, 679.6 is the elevation that has been used for permitting purposes and is not a proposed change in the ordinance update.

Planner Taylor and Attorney Larson addressed the ordinance notification requirements and process, noting the publication, posting, and email notification had been completed in compliance with state statute requirements.

Following discussion, the consensus of the City Council was to table further discussion and have staff work with the DNR to provide a more detail overview of the significant ordinance revisions for consideration at a future meeting.

It was moved by Councilmember Dahl and seconded by Councilmember Carlson to table further discussion until a future meeting. Motion carried 5-0.

3. Consider an amendment to Appendix - Subdivisions of the Bayport City Code of Ordinances: Planner Taylor explained that the Subdivision Ordinance defines general provisions for regulating a change in land use and ensuring development is in compliance with the city's Comprehensive Plan. Specific design and performance standards are outlined in the ordinance for such items as lot/block layout, streets, alleys, easements, utilities, stormwater, and tree preservation. The ordinance also requires financial security from a land developer to ensure compliance with the subdivision requirements.

Planner Taylor noted that in preparation for a potential plat application to the city, the developer for the Baytown concept development EcoHaven questioned the city on options for financial security, specifically the requirement for an escrow or letter of credit. In response to this inquiry, staff discussed and reviewed other city's ordinances and have confirmed that a financial security at 125% of the total cost for the development is the most common amount secured through a lender and adequate to cover development costs, as opposed to 150% currently listed in our ordinance. Staff has also determined that a performance bond is no longer a suitable option for financial security, due to difficulty with the city actually being able to collect fees in case of default by the developer. As a result, staff is proposing to amend the escrow and letter of credit financial security to reflect 125% and eliminate the option of a performance bond.

Planner Taylor noted that the Planning Commission held a public hearing on the ordinance amendments on May 22. No public comments were heard and the Planning Commission recommended approval to the City Council 5-0.

It was moved by Councilmember Dahl and seconded by Councilmember Carlson to adopt amendments to Appendix A - Subdivisions of the Bayport City Code of Ordinances and summary for publication, as presented and upon roll call being taken thereon, the following vote via voice:

Michele Hanson - aye  
John Dahl - aye

Connie Carlson - aye  
Katie Hill - aye

Ethan Gilmore - aye

4. Consider a Joint Powers Agreement with St. Paul Park for law enforcement services: Chief Eastman explained that the St. Paul Park Police Department is requesting assistance with periodic law enforcement coverage for the next few months, due to a staffing shortage. Bayport officers have expressed interest in assisting with coverage on their days off, and Chief Eastman will ensure officers have ample time to rest between shifts. Discussion followed on the terms of the agreement and it was suggested that staff work with the City Attorney to clarify service expectations for vehicle and equipment use in the agreement.

It was moved by Councilmember Hill and seconded by Councilmember Gilmore to approve a Joint Powers Agreement with St. Paul Park for law enforcement services, as discussed. Motion carried 5-0.

5. Consider appointment of a new Public Works Director: Administrator Kline noted that following his appointment, the City Council authorized the hiring process for a replacement Public Works Director. A total of 12 applications were received and following a series of interviews, Simon Wirth was selected as the preferred candidate and he has accepted a conditional offer of employment. Simon has over five years of progressive experience in the Public Works field, primarily working for the City of Lakeland. A tentative start date is anticipated for early July.

It was moved by Councilmember Gilmore and seconded by Councilmember Carlson to appoint Simon Wirth as the new Public Works Director at Grade 10, Step 2 of the city's compensation schedule, pending a completed background investigation and with terms as negotiated during the hiring process. Motion carried 5-0.

#### **CITY COUNCIL LIAISON REPORTS**

Councilmember Gilmore reported on the recent Cable Commission meeting, which included results on the annual budget.

Councilmember Hill reported on the past and future Bayport Community Action League events, including the Ice Cream Social, Farmers Market, and Derby Days. She also reported on the May 22 Planning Commission meeting.

Mayor Hanson attended the Bayport Fire Department Relief Association meeting, a facility planning team meeting with the school district, and Lake Elmo Airport Advisory Committee meeting. She participated in the Public Works Director interviews, a Greater Stillwater Area Chamber of Commerce ribbon cutting event, and various other community events.

#### **STAFF/CITY ADMINISTRATOR REPORTS**

Administrator Kline mentioned the public forum that will take place on June 21 at the Bayport Library to discuss the future of Andersen Elementary School. He reported on the state legislative session outcomes that may impact the city and noted he has been working on the annual budget for 2024.

#### **COUNCIL ITEMS AND ANNOUNCEMENTS**

There were no comments.

#### **ADJOURNMENT**

It was moved by Councilmember Dahl and seconded by Councilmember Gilmore to adjourn the meeting at 8:30 p.m. Motion carried 5-0.

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City Administrator/Clerk