

**CITY OF BAYPORT  
CITY COUNCIL MEETING MINUTES  
COUNCIL CHAMBERS  
AUGUST 7, 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, Public Works Director Simon Wirth, Interim Police Chief Jay Jackson, and City Attorney Christina Benson

**APPROVAL OF AGENDA**

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

**PROCLAMATIONS, COMMENDATIONS, PETITIONS, ANNOUNCEMENTS**

Mayor Hanson noted the July recycling award recipient is Meghan and Joseph Schaubach at 311 Primrose Path who will be awarded for recycling efforts with a grant made possible by Washington County.

**OPEN FORUM**

Riley Jackson introduced herself as the new business owner of the restaurant Olio Bayport located at 338 5<sup>th</sup> Ave. N., with plans to open mid September.

**CONSENT AGENDA**

Councilmember Dahl introduced the following resolution and moved its adoption:

**Resolution 23-12**

**A RESOLUTION APPROVING CONSENT AGENDA ITEMS 1-13 FROM THE  
AUGUST 7, 2023 CITY COUNCIL AGENDA**

Consider a resolution adopting items 1 through 13

1. July 10, 2023 City Council workshop minutes
2. July 10, 2023 City Council regular meeting minutes
3. July payables and receipts
4. July building, plumbing, mechanical, and zoning permits report
5. Temporary liquor license from Bayport American Legion for Derby Days on September 15, 2023
6. Lease extension with St. Croix Preparatory for the Nature Center
7. Appointment of Sergeant Jay Jackson as interim Chief for the Police Department
8. Appointment of Officer Aaron Slinger as interim Sergeant for the Police Department
9. Appointment of Election Judges for the 2023 Special Election
10. Award quote for removal of trees impacted by Emerald Ash Borer
11. Lawful gambling application from Bayport American Legion for Derby Days on September 15, 2023
12. Special event application from Cub/Boy Scout Troop 113 for pumpkin/wreath sales at Village Green on October 7 and November 18, 2023
13. Application for on-sale, Sunday, and off-sale liquor licenses from Olio Hudson LLC for 338 5<sup>th</sup> Ave. 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. Consider adoption of an interim ordinance prohibiting the operation of cannabis and hemp businesses: City Attorney Benson summarized the interim ordinance intended to prohibit retail and manufacturing cannabis businesses until January 2025 and hemp businesses until August 2024. The purpose of the interim ordinance is to mitigate any issues if the State Office of Cannabis Management begins issuing licenses prior to the city enacting an ordinance to allow sales. She noted that the interim ordinance does not prohibit a person or entity licensed by the Department of Agriculture to grow or process industrial hemp.

It was moved by Councilmember Carlson and seconded by Councilmember Hill to open the public hearing. Motion carried 5-0. Mayor Hanson opened the public hearing and no comments were heard. It was moved by Councilmember Hill and seconded by Councilmember Dahl to close the public hearing. Motion carried 5-0.

Councilmember Hill introduced the following interim ordinance and moved its adoption:

**Ordinance 890**

**AN INTERIM ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, PROHIBITING THE OPERATION OF CANNABIS AND HEMP BUSINESSES, OF THE BAYPORT CITY CODE**

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

Michele Hanson - aye  
John Dahl - aye

Connie Carlson - aye  
Katie Hill - aye

Ethan Gilmore - aye

2. Consider adoption of amendments to Chapter 26 – Environment of the Bayport City Code of Ordinances to regulate the use of cannabis and hemp products in public places and amendments to Chapter 6 – Alcoholic Beverages of the Bayport City Code of Ordinances to regulate cannabinoid products: City Attorney Benson summarized an amendment to Chapter 26 - Environment to prohibit intoxicating cannabis and hemp products from being consumed or smoked in public places, such as streets, sidewalks, and parking areas. The ordinance does allow for an exception of consumption in a public park picnic area, consistent with the city’s current ordinance regarding consumption of intoxicating liquor, but prohibits smoking of cannabis flower and cannabis products in all public places. The ordinance would permit law enforcement to charge individuals using such products in public places with a petty misdemeanor. The ordinance does not prohibit use of such products on private property where the owner permits use or the premises of an establishment or event licensed to permit on-site consumption.

City Attorney Benson also summarized an amendment to Chapter 6 - Alcoholic Beverages to allow establishments with a current on-sale or off-sale liquor license to sell cannabinoid products. Upon adoption of the amendment, the existing interim ordinance 887, which prohibits cannabinoid sales, would be repealed. Following establishment of license procedures and application process, the city will work with current liquor license holders on the option to apply for a license to sell cannabinoid products. Sale of cannabinoid products will eventually be regulated by the State Office of Cannabis Management this ordinance would only be in effect until March 1, 2025 when the statute allowing sales of cannabinoid products is automatically implemented.

Discussion followed on licensing procedures and how these ordinances will apply to the general public, as well as restaurant establishments. Enforcement and compliance checks were also reviewed to ensure compliance with the new regulations.

Councilmember Dahl introduced the following ordinance and moved its adoption:

**Ordinance 891**

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, AMENDING CHAPTER 26- ENVIRONMENT TO REGULATE THE SMOKING AND DRINKING OF CANNABIS FLOWER, CANNABIS PRODUCTS, LOWER POTENCY HEMP EDIBLES OR HEMP DERIVED CONSUMER PRODUCTS IN PUBLIC PLACES, OF THE CITY CODE**

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

Michele Hanson - aye  
John Dahl - aye

Connie Carlson - aye  
Katie Hill - aye

Ethan Gilmore - aye

Councilmember Dahl introduced the following ordinance and moved its adoption:

**Ordinance 892**

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, AMENDING CHAPTER 6 - ALCOHOLIC BEVERAGES TO REGULATE THE SALE OF CANNABINOID PRODUCTS, OF THE CITY CODE**

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

Michele Hanson - aye  
John Dahl - aye

Connie Carlson - aye  
Katie Hill - aye

Ethan Gilmore - aye

**UNFINISHED BUSINESS**

1. Consider amendments to Appendix E - Floodplain Management of the Bayport City Code of Ordinances: City Administrator Kline noted that since the July 10 meeting, staff has only been contacted by one resident in the floodplain on the proposed ordinance amendments. The resident stated that he had been approached by concerned resident(s) that attended either the June 5 or July 10 City Council meeting and was seeking clarification on the proposed ordinance updates on their behalf. First, he acknowledged the importance of the ordinance, which enables the city to participate in the flood insurance program. He sought clarification on the boundaries of the floodway versus the flood fringe districts and staff confirmed that a majority, if not all residential structures in the floodplain would be classified in the flood fringe district, which allows more flexibility for properties in the way of alterations or improvements. He also requested clarification on Section 12.2, which relates to substantial improvement and substantial damage determinations. Specifically, the resident suggested tracking and limiting improvements over a given time period as opposed to over the life of the structure. Staff consulted with the DNR to provide clarification on the inquiry for City Council consideration, as follows:

Section 12.2 A: Federal standards require that substantial improvements be tracked over a 1-year period, which would theoretically allow improvements up to 50% year after year. Improvements result in greater insurance costs, increase the potential loss, and increase the cost to eventually bring the structure into compliance. The new model ordinance suggests limiting improvements to 50% over the life of a structure. As an alternative, the DNR confirmed that the city may choose to limit expansions over a given time period, i.e., no improvements beyond 50% over the course of 10 or 20 years.

Section 12.2 B: The new model ordinance suggests gradually eliminating nonconformities that are frequently damaged, but not to the 50% level. The repetitive loss provision maximizes the eligibility for structures to qualify for FEMA’s “Increased Cost of Compliance” program, which is a rider on a flood insurance policy that provides funding to property owners to elevate, demolish, relocate, or floodproof damaged structures and bring them into compliance.

Discussion followed on limiting substantial improvements over the course of 10 years, as opposed to the life of the structure, as the new model ordinance suggests. Karen McCloud, 321 3<sup>rd</sup> St. S. urged the City Council to adopt the proposed ordinance updates, as one of the new provisions allows alternatives methods of floodproofing for non-residential structures, which would apply to their pending detached garage project.

Councilmember Dahl introduced the following ordinance and summary for publication and moved its adoption:

**Ordinance 893**

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA, AMENDING APPENDIX E, FLOODPLAIN MANAGEMENT OF THE BAYPORT CITY CODE**

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

Michele Hanson - aye  
John Dahl - aye

Connie Carlson - aye  
Katie Hill - aye

Ethan Gilmore - aye

**NEW BUSINESS**

1. Consider awarding a bid for a sanitary sewer cleaning and televising project: Public Works Director Wirth noted that sanitary sewer cleaning and televising is completed every three years. Staff collaborated with the city engineer on a bidding document for the project, which was distributed to contractors who had previously bid city sewer cleaning contracts. The city received five bids ranging from approximately \$97,000 to \$219,000. The low bid was received from Pipe Services in the amount of \$97,431.74.

It was moved by Councilmember Dahl and seconded by Councilmember Hill to award the sanitary sewer cleaning and televising project to Pipe Services, including the alternate bid option for a not to exceed cost of \$97,431.74 and allowing staff to determine the inclusion of the alternate bid work, 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

2. Consider authorization for SEH to complete survey work, design, and bid services for the 4<sup>th</sup> Ave. N. street improvement project: City Administrator Kline noted a street reconstruction project is proposed for 4th Ave. N. from Maine St. to the St. Croix River boat launch in the summer of 2024. The street is located between the Andersen Corporation administrative offices and their parking lot and received a rating of 4 out of 10 during this year’s street evaluation. This rating normally would qualify for a mill and overlay, but given the significant crown on the road, potholes, and pedestrian traffic, staff is recommending a reconstruct for the portion that abuts the parking lot and a mill and overlay for the remaining section that leads to the boat launch. The project will also include stormwater improvements in the city right-of-way near the boat launch. Currently, there is no water/sewer utility infrastructure in this area. SEH has provided a cost estimate for the initial engineering work and proposed construction work, which includes surveying, plans and specifications, and a feasibility report.

It was moved by Councilmember Dahl and seconded by Councilmember Carlson to adopt a motion authorizing SEH to complete survey work, design, and bid services for the 4th Ave. N. street improvement project for a not to exceed amount of \$44,151 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

**CITY COUNCIL LIAISON REPORTS**

Councilmember Carlson reported on the recent Library Board meeting, noting that summer programs have been very well attended and they have added an additional movie event on August 17 at 2:00 p.m.

Councilmember Dahl reported on a St. Croix River Workshop on the Water event, hosted by the Washington Conservation District on July 25.

Councilmember Hill reported on the recent Bayport Community Action League meeting and upcoming events planned for Derby Days on September 15-16. She mentioned St. Charles Church will be collecting used tennis shoes during Derby Days for families in need.

Mayor Hanson reported on her participation in the interim sergeant interviews this past month, as well as her attendance at Lumberjack Days and the WDGY ribbon cutting event. She also met with new Not Justa Bar business owners Ashley and Ethan Bell.

**STAFF/CITY ADMINISTRATOR REPORTS**

Interim Chief Jackson reported on call volume, staff training, and the department's participation in past/upcoming events. The department hosted its annual safety camp on July 31 and August 1 and her thanked staff and volunteers for their efforts.

Public Works Director Wirth reported on tree trimming, street maintenance projects, lead service line inspections, and progress on the April 1 storm clean up. He also provided an update on the installation of the centennial pavilion at Village Green Park anticipated for this fall.

Administrator Kline reported on the preliminary city budget preparation and noted that the Ecohaven development proposed in February by GreenHalo Builds is likely to be postponed indefinitely due to financial implications.

#### **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 7:28 p.m. Motion carried 5-0.

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City Administrator/Clerk