

BAXTER CITY COUNCIL MINUTES
January 5, 2016

Vice Mayor Todd Holman, who led in the pledge to the flag, called the regular meeting of the Baxter City Council to order at 7:00 p.m.

COUNCIL MEMBERS PRESENT: Vice Mayor Todd Holman and Council Members Quinn Nystrom and Mark Cross

COUNCIL MEMBERS ABSENT: Mayor Olson and Council Member Steve Barrows

STAFF PRESENT: City Administrator Gordon Heitke, Community Development Director Josh Doty, Chief of Police Jim Exsted, Assistant City Administrator Kelly Steele, Finance Director Jeremy Vacinek, and Public Works Director Trevor Walter

CONSENT AGENDA

- A. Approve City Council Minutes from December 17, 2015
- B. Approve City Council Work Session Minutes from December 17, 2015
- C. Approve the Payment of Bills and Finance Report
- D. Approve Resolution No. 2016-001 Establishing the 2016 Council Appointments
- E. Approve Resolution No. 2016-002 Establishing the 2016 Annual Designations
- F. Approve Ordinance 2016-001 Amending the Text of Title 5, Chapter 6 Tobacco and Tobacco Related Devices, of the Baxter City Code and Approve Ordinance 2016-002 Summary Publication of Ordinance 2016-001
- G. Approve Ordinance 2016-003 Regulating the Use of Electronic Delivery Devices within the City of Baxter Minnesota and Ordinance 2016-004 Summary Publication of Ordinance 2016-003
- H. Approve Resolution 2016-003 Receiving Feasibility Report and Calling Hearing on Improvement for the 2016 Fairview Road and Trail Improvement Project for Monday, February 1, 2016 at 6:00 p.m.
- I. Approve Resolution No. 2016-004 Support from Sponsoring Agency for Inglewood Drive Railroad Crossing Grant Application
- J. Approve the TKDA Proposal for Professional Engineering Services for the Fixed Network Water Meter Reading System Project in the not to exceed amount of \$12,000.00
- K. Approve Animal Control Agreement with Animal Control Enforcement Services (Don Hannahs) for 2016
- L. Adopt 2016 Mileage Reimbursement Rate of 54 cents per mile per IRS Regulations
- M. Approve SEH Contract for Fairview Road and Trail
- N. Approve Settlement Agreement with 7256 Wolda Road

Kim Murray, 8807 Gwynn Lane, Brainerd, requested the council pull agenda items F. and G.

Colin Brooks, 26052 Church Street, Nisswa, requested the council pull agenda items F. and G.

Cap O'Rourke, 5816 10th Ave. S., Minneapolis, requested the council pull agenda items F. and G.

MOTION by Council Member Cross, seconded by Council Member Nystrom to approve the Consent Agenda with the exception of agenda item F. and G. Motion carries unanimously.

PULLED AGENDA ITEMS

Kim Murray explained she would like to discuss agenda items F. and G. simultaneously to save time. Ms. Murray explained her grandfather and mother passed away due to cancer. Ms. Murray further explained her son had a heart attack and had to quit smoking. Her son starting vaping and was able to quit smoking. Ms. Murray explained her husband has a medical condition due to smoking, which limits his mobility, and smoking could be contributed to her dental concerns. Ms. Murray explained people need to find a way to quit smoking. Ms. Murray is opposed to an ordinance banning vaping in public spaces and believes businesses should have the right to decide themselves. Ms. Murray asked the council to consider pulling the ordinances from the agenda to allow members of the public to testify for or against the ordinances. Ms. Murray explained this is the first time she observed a community not holding a public vote. Ms. Murray explained she delivered a petition to city hall with over 300 signatures and a Brainerd Dispatch poll. There is new research showing e-cigarettes are better than smoking and a recent study showed only two of 29 e-liquids showed traces of contaminants. Ms. Murray explained the fog produced from an e-cigarette is not more dangerous than fog emitted from a fog machine. Ms. Murray asked the council to not pass the ordinances.

Colin Brooks explained the vaping industry has made leaps and bounds and the study referenced in the proposed ordinance is outdated. Mr. Brooks asked the council to take a step back and get data that are more current. Mr. Brooks provided the council with a copy of a 20015 study. Mr. Brooks explained there are less volatile compounds in vaping than the air the council is currently breathing. Mr. Brooks encouraged the council to read the studies dropped off at city hall. Mr. Brooks explained vaping is completely different from breathing cigarette smoke. Mr. Brooks explained as a single father with a two-year old, he could not enter an e-cigarette shop without getting a babysitter or leaving his child in the car. The proposed ordinance discriminates against single parents because they are unable to purchase their supplies if they cannot bring their child into the e-cigarette shop. Mr. Brooks explained vaping is not hazardous to bystanders. People vaping will have to stand outside with people who are smoking cigarettes.

Cap O'Rourke explained he is a representative of the two vaping product shops located in Baxter. Mr. O'Rourke explained the two vaping shops are not attending because they were not provided notice of the meeting by the city. Mr. O'Rourke explained he emailed the city that the city must provide a 30-day notice when changing tobacco licensing standards. Mr. O'Rourke explained he understands the city does not think the changes are significant to warrant the notice. In rural settings, vaping products can be purchased at convenience stores and is not a preferred product by vapers because the product is subpar. Vapers have to purchase product from a vape store. Mr. O'Rourke explained the council should allow minors into the vape stores if accompanied by a parent or guardian. Mr. O'Rourke questioned how a vaper could purchase

products and still take care of their child. Mr. O'Rourke asked the council to change the ordinance language to allow minors into a vape shop if accompanied with a parent or guardian. Mr. O'Rourke explained he is aware the request was brought to the council by the area hotels and they are unable to enforce their own policies. This ordinance will force vapers to stand outside with smokers. E-cigarettes are 95% safer than cigarettes. Mr. O'Rourke explained other methods to quit smoking have been cut in half and the only use that is going up is e-cigarette use. There is strong evidence e-cigarette are safer.

City Administrator Heitke explained both Baxter businesses were aware of the meeting because he and Assistant City Administrator Steele met with them and provided them with a copy of the ordinances.

Vice Mayor Holman explained the city received a letter from the lodging establishments, so the city started down a path to review. The Chamber contacted their members and presented their findings at a council meeting. The Council has conducted work sessions to discuss the request. All pieces of input have been reviewed.

Attorney Person reminded the council a 4/5 vote is required to approve the summary ordinances for publication. City Administrator Heitke explained the council can act on the ordinance amendments, but the summary ordinances would have to wait until the next council meeting.

Council Member Nystrom explained she met with both e-cigarette businesses to educate herself.

Council Member Cross explained no studies have found e-cigarette use to be 100% safe.

MOTION BY Council Member Cross, seconded by Council Member Nystrom to approve Ordinance 2016-001 Amending the Test of Title 5, Chapter 6 Tobacco and Tobacco Related Devices, of the Baxter City Code. Motion carries unanimously.

MOTION by Council Member Cross, seconded by Council Member Nystrom to approve Ordinance 2016-003 Regulating the Use of Electronic Delivery Devices within the City of Baxter Minnesota. Motion carries unanimously.

OTHER BUSINESS

Approve 2016 Meeting Calendar for City Council and Commissions

Assistant City Administrator Steele explained the council should be aware of two potential meeting conflicts. The March 1, 2016 council meeting falls on the same day as the caucus. State law prohibits meetings after 6 p.m. on the evening of a major political party precinct caucus. The August 2 council meeting is scheduled the same day as Night to Unite. The Police Department originally planned to hold Night to Unite on August 9 to avoid the conflict with the council meeting and the county fair, but had to reschedule due to August 9 Primary Election. In the past, the council has rescheduled the council meeting to the following Wednesday to avoid the Night to Unite conflict.

Staff is looking for council direction to reschedule the March 1 and August 2 council meetings. Moving both meetings to the next evening, Wednesday, March 2 and Wednesday, August 3 conflicts with the 5:30 p.m. Utilities Commission meeting. The Council could consider moving both meetings to Thursday, March 3 and Thursday, August 4.

MOTION by Council Member Cross, seconded by Council Member Nystrom to amend the 2016 meeting schedule by moving the March 1, 2016 council meeting to March 3, 2016 and moving the August 2, 2016 council meeting to August 4, 2016. Motion carries unanimously.

Public Hearing at 7:00 p.m. or thereafter to discuss vacating a 10-foot wide right-of-way easement over and across Lot 2, Block 1 Citizens Addition

Vice Mayor Holman opened the public hearing at 7:50 p.m.

Community Development Director Doty explained the easement vacation is for the former Enterprise car rental site. The council has previously approved a conditional use permit for the site. The sale of the property has sold and the applicant is now requesting approval.

Hearing no public comments, Vice Mayor Holman closed the public hearing at 7:52 p.m.

Adopt Resolution 2016-005 vacating a 10-foot wide right-of-way easement over and across Lot 2, Block 1 Citizens Addition

MOTION by Council Member Cross, seconded by Council Member Nystrom to adopt Resolution 2016-005 vacating a 10-foot wide right-of-way easement over and across Lot 2, Block 1 Citizens Addition. Motion carries unanimously.

COUNCIL COMMENTS

Quinn Nystrom: Council Member Nystrom explained she will be absent from the next council meeting.

Todd Holman: Vice Mayor Holman complimented staff on the city newsletter and explained the website is looking good.

CITY ADMINISTRATOR'S REPORT

Dellwood Drive Improvement Project Update

City Administrator Heitke explained Crow Wing County is undertaking the improvement which, in addition to the county, it involved the cities of Baxter and Brainerd. All parties agree on how to proceed. City Administrator Heitke explained he would bring three agreements, similar to the Inglewood Drive agreements, to a future council meeting. Annexation would occur in the future at a rapid pace.

City Administrator Heitke presented a biography of an individual to facilitate a strategic planning session during the first quarter of 2016. City Administrator Heitke explained the facilitator is used by the LMC to train newly elected officials. City Administrator will coordinate the date of the session.

CITY ATTORNEY’S REPORT

Closed Session under Minnesota Statute 13D.05, Subd. 3 (c) (3) to develop an offer for the purchase of real property.

Attorney Person asked council to postpone discussion at this time.

ADJOURNMENT

MOTION by Council Member Cross, seconded by Council Member Nystrom to adjourn the meeting at 7:59 p.m. Motion carries unanimously.

Approved by:

Respectfully submitted,

Todd Holman
Vice Mayor

Kelly Steele
Assistant City Administrator/Clerk