

BAXTER CITY COUNCIL MINUTES
January 19, 2016

Mayor Darrel Olson, 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: Mayor Darrel Olson and Council Members Steve Barrows, Todd Holman, and Mark Cross

COUNCIL MEMBERS ABSENT: Council Member Quinn Nystrom

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

FRANCHISE FEE INFORMATIONAL DISCUSSION

Nick Anhut, Ehlers, explained the City is holding a public informational meeting on the proposed establishment of utility franchise fees. Ehlers has been working with the City to provide information on steps and best practices for implementing gas and electric franchise fees and propose a fee structure to fund a portion of the City's street maintenance and street lighting programs.

Cities in Minnesota charge franchise fees to utility service providers as an alternative means to raise revenues for the City's general fund or for a specific project. Franchise fees have become a more common and desirable alternative to taxes for funding street maintenance in the absence of other funding mechanisms. Currently over 65 cities in Minnesota have implemented franchise fees to assist with raising revenues. The franchise fees are usually a fixed amount charged per month, but in some cases they are based on a percentage of gross revenues. Generally, fees will vary by type of customer – whether it is residential or commercial- and they may be capped per customer.

There are several benefits to establishing franchise fees, such as reliable and stable source of revenue irrespective of economic conditions and state budgets; growth in revenues is proportional to the growth in business activity and population; new residents immediately begin contributing to the cost of city services; tax exempt properties, including state, county and school facilities along with churches and other non-profits, contribute their respective share to the revenue stream; and opportunity to balance the financial obligations between payer classes without being based on property valuation.

While there are several benefits, there are also disadvantages, such as viewed as another form of taxes; perceived as a means of generating new revenues without annual notification and approval; unpopular with certain property or user classes; may be opposed by non-profits that do

not believe their benefits equal their costs; and may need to be adjusted periodically for inflationary and other factors.

Ehlers and the City have communicated with the four utility providers regarding the process of implementing a franchise fee. Empowered by each provider's franchise agreement, the City must adopt an ordinance for each service provider enacting the fee. The ordinance will contain the terms of the fees imposed, along with setting effective and expiration dates.

Fees are collected on a monthly basis from service provider customers. Service providers then remit said fees to the City.

Each service provider has unique customer classifications to differentiate pricing for residential and various commercial entities. These classifications are based on the usage and peak demand each account places on the utility system. Customers are charged monthly fixed fees by customer type as well as usage rates. Schools, churches, hospitals, and other similar institutes are classified as commercial.

In developing its fee structure, the City projected a 10-year funding need and reviewed average monthly gross revenue information for each utility provider by customer classification. For pavement management funding, an initial 2.5% target of average monthly gross revenues by customer classification was used to set the fixed fee level. The City then adjusted the fee structure with the intent to try to alleviate disparities between the utility providers' customer classifications at the bequest of the utility providers. The City underwent a similar exercise for street lighting using only the electric utilities.

Matt Killian, Brainerd Lakes Chamber, asked if the local option sales tax could be used for pavement management. City Administrator Heitke explained the sales tax could not be used for pavement management projects. Mr. Killian explained 60% of the revenue would be generated from commercial businesses. Due to the commercial district being condensed, is a 60% commercial and 40% residential the correct split.

Matt Seymour, 8218 Highland Scenic Drive, inquired what would prevent the city from doubling or tripling the proposed fee in the future. Streetlights are light pollution and can be turned off for cost savings.

Mayor Olson explained the City of Baxter does not receive local government aid and has maintained a single digit levy increase. The council has discussed implementing a fair fee.

City Administrator Heitke explained the funding source was identified to be used for street maintenance. The next step is to submit the ordinance to the utility companies for review. The Council consensus was to add this to the February 2, 2016 meeting for consideration.

Naomi Houdek, 5005 Brentwood Road, inquired if the proposed funding is adequate for funding pavement management.

CONSENT AGENDA

- A. Approve City Council Minutes from January 05, 2016
- B. Approve City Council Work Session Minutes from January 05, 2016
- C. Approve the Payment of Bills and Finance Report
- D. Approve Ordinance 2016-005 Amending Text of Title 4, Chapter 3 Open Burning and Ordinance 2016-006 Summary Publication of Ordinance 2016-005
- E. Award the Professional Engineering and Related Engineering Services Contract for 2016 Mill & Overlay/Full Depth Reclamation and New Construction of Right Turn Lane Construction Project to WSN in the not to exceed amount of \$164,409
- F. Approve Ordinance 2016-002 Summary Publication of Ordinance 2016-001 Amending the Text of Title 5, Chapter 6 Tobacco and Tobacco Related Devices
- G. Approve Ordinance 2016-004 Summary Publication of Ordinance 2016-003 Regulating the Use of Electronic Delivery Devices within the City of Baxter Minnesota
- H. Accept Utilities Commission Minutes of January 6, 2016
 - 1. Approve the Bolton & Menk Inc. 2015 Chip Seal Improvements Project Reimbursement Request in the amount of \$7,164.00
 - 2. Approve the R. L. Larson Excavating Change Order No. 3 in the increased amount of \$22,740.00 for the 2015 Isle Drive Extension Improvements Project
 - 3. Approve the R. L. Larson Excavating Change Order No. 4 in the increased amount of \$47,680.00 for the 2015 Isle Drive Extension Improvements Project
 - 4. Approve the R. L. Larson Excavating Final Pay Estimate No. 7 in the amount of \$339,827.37 for the 2015 Isle Drive Extension Improvement Project
 - 5. Approve the SEH, Inc. Agreement for Fee Increase in the Not to Exceed amount of \$25,137.00 for the 2015 Mill & Overlay Project
 - 6. Accept the Mills Indoor Shooting Range Project as per the Development Agreement
 - 7. Accept the Northern Lakes Senior Living Project as per the Development Agreement and release the Irrevocable Letter of Credit No. 105887734 in the amount of \$89,510.44 to TM Excelsior, LLC

City Administrator Heitke asked the council to pull agenda item D.

Kim Murray, 8897 Gwynn Lane, Brainerd, asked the council to pull agenda items F and G.

MOTION by Council Member Cross, seconded by Council Member Barrows to accept the consent agenda with the exception of agenda items, D., F., and G. Motion carries unanimously.

PULLED AGENDA ITEMS

City Administrator Heitke explained a question regarding the open burning amendment arose today, and because there is no rush to approve the amendment, staff recommends the council tables the discussion until the next council meeting.

MOTION by Council Member Cross, seconded by Council Member Barrows to table agenda item D. Approve Ordinance 2016-005 Amending Text of Title 4, Chapter 3 Open Burning and Ordinance 2016-006 Summary Publication of Ordinance 2016-005. Motion carries unanimously.

Ms. Murray explained she would rather see children safe than left unattended in a vehicle. Ms. Murray asked the council to reconsider allowing children to enter a vape shop with an adult.

The consensus of the council was to amend the ordinance to allow children in vape shops. Staff will prepare an amendment for council consideration at the next council meeting.

MOTION by Council Member Holman, seconded by Council Member Barrows to table agenda items F. and G. to allow staff time to make amendments to the ordinance to allow children to enter tobacco product shops when accompanied by a parent or legal guardian. Motion carries unanimously.

COUNCIL COMMENTS

Todd Holman: Council Member Holman explained when a holiday falls on the Monday preceding a council meeting, council does not have access to staff to ask for clarification on agenda items. Council Member Holman asked council to consider adjustments when setting the 2017 meeting calendar.

Council Member Holman explained the City Administrator’s review needs to be scheduled in March. The council consensus was to schedule City Administrator Heitke’s review for March 24 and March 31 was reserved as an alternate date.

MOTION by Council Member Holman, seconded by Council Member Barrows to schedule City Administrator Heitke’s review for 6:00 p.m. on Thursday, March 24, 2016. Motion carries unanimously.

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 enter a closed session to discuss an offer to purchase real property.

MOTION by Council Member Holman, seconded by Council Member Cross to enter a closed session at 8:07 p.m. Motion carries unanimously.

Mayor Olson opened the regular meeting at 8:27 p.m.

Attorney Person asked council to table action until the next council meeting to allow staff more time to review.

MOTION by Council Member Cross, seconded by Council Member Holman to table discussion on the offer to purchase real property until the next council meeting. Motion carries unanimously.

ADJOURNMENT

MOTION by Council Member Cross, seconded by Council Member Barrows to adjourn the meeting at 8:28 p.m. to the special meeting on Monday, February 1, 2016 for the Fairview Road improvement hearing. Motion carries unanimously.

Approved by:

Respectfully submitted,

Darrel Olson
Mayor

Kelly Steele
Assistant City Administrator/Clerk