

**BAXTER CITY COUNCIL MINUTES**  
**Special Meeting**  
**April 11, 2018**

Mayor Darrel Olson called the special meeting to order at 5:02 p.m.

COUNCIL MEMBERS PRESENT: Mayor Darrel Olson, Council Members Steve Barrows and Todd Holman

COUNCIL MEMBERS ABSENT: Council Member Quinn Nystrom and Mark Cross

STAFF PRESENT: City Administrator Bradley Chapulis and Public Works Director Trevor Walter.

**Approve the Pratt's Affordable Excavating Quote in the amount of \$12,680 for the 2018 Evergreen Drive Improvements Project**

Last fall, Evergreen Drive was closed due to safety concerns when surface water from the wetland located west of the street began overtopping the roadway surface. At the April 3, 2018 work session, City Council directed staff to obtain quotes to raise the roadway as a temporary and emergency repair.

To save costs, the City will need to complete the work as soon as possible before snow melting begins this spring otherwise there will be an additional estimated cost of \$4,000 - \$5,000 needed for crushed rock. To raise the grade of the street to eliminate the flooding, the crushed rock would be needed in lieu of the sand. The crushed rock would be placed on top of the existing bituminous if there was standing/open water to stabilize the subgrade to place the class 5 aggregate base.

The 2-inch bituminous pavement would be bid and completed as part of the 2018 Mill & Overlay Improvements Project which should save the City some additional costs for this emergency repair to Evergreen Drive.

Staff obtained quotes for supplying and placing 6 inches of sand and 6 inches of class 5 aggregate base material over approximately 800 feet of Evergreen Drive existing pavement. Two quotes were returned from the following construction companies:

- Anderson Brothers Construction \$14,940
- Pratt's Affordable Excavating \$12,680

Funding for the project will come out of the 2018 Streets Budget; however, this project was not budgeted for in 2018. Staff hopes that a couple of projects in the Streets Budget will come in lower than our estimates this year. Staff will continue to monitor the Streets Budget closely and transfer to this line item to balance the budget by the end of 2018.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to Approve the Pratt's Affordable Excavating Quote in the amount of \$12,680 for the 2018 Evergreen Drive Improvements Project. Motion carried unanimously.

## **Approve BNSF Grade Crossing Construction and Maintenance Agreement for the 2018 Cypress Drive Improvements Project**

On February 2, 2018, BNSF released the first draft of the Construction and Maintenance Agreement (CMA) to the City which has been discussed at previous City Council meetings. On April 9, 2018 SEH received BNSF's Final CMA. The CMA ties together the previously approved Purchase and Sale Agreement (PSA) and Easement Agreement (EA) and includes specific costs for construction and maintenance of the new grade crossing signal system and crossing surface.

The CMA terms are substantially similar to previously discussed terms including costs. Despite multiple teleconferences and correspondences with BNSF representatives, the City's comments on the previous CMA version as a whole have largely gone unaddressed in the final version except for the maintenance provisions. For all intents and purposes, this is a "take it or leave it" agreement. If the City isn't comfortable with the terms, the other option would be to delay the Cypress Drive project a year or more and proceed with an administrative law judge hearing process administered through MnDOT in an attempt to modify the CMA terms to be more favorable to the City.

The closing is now tentatively scheduled for April 20, 2018 but may need to get pushed out pending timing of the CMA final execution by BNSF after the City signs off. Jones Lang LaSalle and BNSF representatives have advised that it takes approximately 2 - 3 weeks to get everything processed on their end.

Outside project funding constraints require that title and possession of all property be acquired prior to their authorization to advertise for construction bids is given. The two railroad properties connected with the CMA are the last to be acquired prior to bid authorization. The goal has been to start construction by the end of June or early July 2018.

Property acquisition and grade crossing signal equipment and surfaces are planned costs for the 2018 Cypress Drive project. The total estimated construction and maintenance cost tied to the CMA is \$1,246,603. The CMA costs will be progressively billed by BNSF to the City over 2018 and 2019 coinciding with construction of the project.

Scott Hedlund, consulting engineer with SEH, explained it is not clear the \$800,000 payment goes into perpetuity. MnDOT has been consulted and their option is that the City of Baxter is being treated fairly by BNSF.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to Approve BNSF Grade Crossing Construction and Maintenance Agreement for the 2018 Cypress Drive Improvements Project. Motion carried unanimously.

### **Closed Session under Minnesota Statute 13D.05, subd. 3 (c), Purchase of Property**

City Administrator Chapulis explained the closed session agenda item will not be discussed as the documents have not been received.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to adjourn at 5:12 p.m.  
Motion carries unanimously.

Approved by:

Respectfully submitted,

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Darrel Olson  
Mayor

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Kelly Steele  
Assistant City Administrator