

**BAXTER CITY COUNCIL MINUTES**  
**April 17, 2018**

**1. Call Meeting to Order**

Mayor Darrel Olson called the meeting to order at 7:00 p.m.

**2. Roll Call**

Mayor Darrel Olson and Council Members Quinn Nystrom, Steve Barrows, and Mark Cross were present. Council Member Todd Holman was absent.

City Administrator Bradley Chapulis, Assistant City Administrator Kelly Steele, Public Works Director Trevor Walter, Police Chief Jim Exsted, Finance Director Jeremy Vacinek, and Community Development Director Josh Doty were present.

**3. Pledge of Allegiance**

All joined Mayor Darrel Olson the Pledge of Allegiance

**4. Additions or Changes to the Agenda**

**5. Public Comments**

**6. Consent Agenda**

- A. Approve City Council Minutes from April 3, 2018
- B. Approve City Council Work Session Minutes from April 3, 2018
- C. Approve City Council Special Minutes from April 11, 2018
- D. Approve the Payment of Bills and Finance Report
- E. Approve the Crow Wing County Classification to Non-Conservation and Future Sale Thereof for the Tax Forfeited Lot 4, Block 2 Baxter Estates; Lots 3-10, Block 1 MacDonald Acres; and Part of Government Lot 3 in Section 7, Township 133, Range 28 with the Outstanding Special Assessments Reaffirmed
- F. Approve Appointments for the Seasonal Position of Park Attendant for the 2018 Summer
- G. Approve Appointment to the Seasonal Position of Roadside Mower for the 2018 Summer
- H. Accept Planning Commission Minutes from April 11, 2018
- I. Accept Utilities Commission Minutes from April 4, 2018
  - 1. Approve the final acceptance of Riverwood Bank Project, release Performance Bond No. 40223 in the amount of \$35,000.00 and accept the Letter of Credit or cash escrow in the amount of \$1,625.00 for the turf establishment on the stormwater pond
  - 2. Approve the Crow Wing County Cost Share Agreement for 2018 City of Baxter Striping Project in the estimated amount of \$39,115.78
  - 3. Adopt Resolution No. 2018-034 Revoking Municipal State Aid Streets
  - 4. Adopt Resolution No. 2018-035 Establishing Municipal State Aid Streets
  - 5. Approve the BNSF Railway Company Pipeline License for the Lift Station No. 3 Reroute Improvements Project in the amount of \$2,131.25
  - 6. Approve the BNSF Railway Company Pipeline License for the 2018 Cypress Drive Improvements Project in the amount of \$2,597.25
  - 7. Approve the Pratt's Affordable Excavating, Inc. Change Order No. 1 in the increased amount of \$162,590.50 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project

8. Approve the Pratt's Affordable Excavating, Inc. Partial Pay Estimate No. 1 in the amount of \$64,914.45 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project
  9. Approve the Eagle Construction Company, Inc. Final Pay Estimate No. 4 in the amount of \$22,376.25 for the 2018 Water Treatment Plant Flume Replacement Project
  10. Approve the Sambatek Proposal for the Baxter Water Treatment Plant Iron Oxidation Testing in the not to exceed amount of \$1,530.00
  11. Acknowledge the replacement of the existing structure with the new proposed structure for the MN DNR's Red Sand Lake Project
  12. Adopt Resolution 2018-026 Ordering Preparation of Report on 2021 Inglewood Drive Railway Crossing & Foley Road Improvement Project
  13. Adopt Resolution 2018-036 Receiving the Feasibility Report for the 2021 Inglewood Drive Railway Crossing & Foley Road Improvements Project
- J. Adopt Resolution No. 2018-027 Requesting Municipal State Aid Street Funds Advance

**MOTION** by Council Member Cross, seconded by Council Member Barrows to approve the Consent Agenda with the exception I 11. Motion carried unanimously.

## 7. Pulled Agenda Items

Council Member Cross asked to pull Consent Agenda Item I 11 to ensure staff will be providing comments to the DNR.

**MOTION** by Council Member Cross, seconded by Council Nystrom to Acknowledge the replacement of the existing structure with the new proposed structure for the MN DNR's Red Sand Lake Project and to provide comments to the DNR. Motion carried unanimously.

## 8. Other Business

### A. Planning and Zoning Actions

1. **Adopt Ordinance No. 2018-006, Summary Ordinance No. 2018-007, Findings of Fact Resolution 2018-028, Resolution 2018-029, and Resolution 2018-030 approving an ordinance amending the text of Title 10 of the City Code, Preliminary/Final plat of Christ Lutheran Addition to Baxter and a Conditional Use Permit to allow a school use at 13815 Cherrywood Drive**

Community Development Director Doty explained the request to add a preschool to the church. The preschool would be a joint use with the church in the existing facility. The request requires several applications. The plat is requested by the City due to six existing residential lots occupy to the church property to clean up into one lot. The plat meets the district requirements as consolidated. There would be no exterior site changes. The City has significant right-of-way and park dedication is not required. School uses are allowed in many districts with a conditional use permit. The Utilities Commission and Planning and Zoning Commission have reviewed and recommend approval.

Council Member Barrows inquired if the trees located on west side of property will remain. The applicant, Justin Barrick, explained the church has no plans to remove the trees and the church is looking to forward to expanding the use of the facility.

**MOTION** by Council Member Barrows, seconded by Council Member Cross Adopt Ordinance No. 2018-006, Summary Ordinance No. 2018-007, Findings of Fact Resolution 2018-028, Resolution 2018-029, and Resolution 2018-030 approving an ordinance amending the text of Title 10 of the City Code, Preliminary/Final plat of Christ Lutheran Addition to Baxter and a Conditional Use Permit to allow a school use at 13815 Cherrywood Drive. Motion carried unanimously.

**2. Adopt Ordinance 2018-008, Resolution 2018-031 and Resolution 2018-032 approving Rezoning, Preliminary/Final Plat and Conditional Use Permits to allow “Fifth Addition to Baxter Greenwood Acres” to move two single family homes onto two new single family lots located east of the Birch Drive cul-de-sac and north of College Road**

Community Development Director Doty explained the request is by the City to allow the moving of two existing single-family homes on property due to the Cypress Drive project. The property is currently zoned public benefit. The replat would allow an outlot to be subdivided into two single family lots and one outlot. The original Birch Drive construction anticipated two lots as two water and sewer stubs were provided. The rezoning is consistent with the Comprehensive Plan. The two lots would become part of an existing residential subdivision. The application meets the minimum lot requirements. Park dedication is required as part of the application. Council Member Cross inquired if park dedication is required because they are existing homes, park dedication is still required. Community Development Director Doty explained park dedication is required for the creation of new lots. The Planning and Zoning Commission has recommended approval.

**3. MOTION** by Council Member Barrows, seconded by Council Member Nystrom to Adopt Ordinance 2018-008, Resolution 2018-031 and Resolution 2018-032 approving Rezoning, Preliminary/Final Plat and Conditional Use Permits to allow “Fifth Addition to Baxter Greenwood Acres” to move two single family homes onto two new single family lots located east of the Birch Drive cul-de-sac and north of College Road. Council Member Cross asked to amend the motion to consider park dedication fees because we are eliminating two lots in the same subdivision in which two lots are being created. Council Member Barrows accepted the amendment. Council Member Cross asked to credit back the park dedication fee or to not charge. Community Development Director Doty explained the City has lots that go away in many different situations and the credit back could be a concern. City Administrator Chapulis explained the City should be consistent with policy and should not be treating ourselves differently than to the private sector. When initially reviewed this project, the funding sources were reviewed to include the regional TIF fund was use and would recommend the Council keep the park dedication fee as is proposed. Council Member Cross felt this is a unique issue and we are dealing with a nonprofit. Finance Director Vacinek explained the funding source is the tax increment through our housing project, so we envisioned the TIF from the existing housing

districts that cannot be used for anything, but affordable housing would fund those costs to create the lots. Council Member Cross explained the argument to collect park dedication is because new families are being added, in this case we are taking the two homes and moving them 700' in the same neighborhood. Mayor Olson explained this a worthwhile project and due to the funding sources, this is more unique.

Mayor Olson asked for a vote on Council Member Cross' amendment. Voting yes was Council Member Cross and voting no was Council Member Nystrom and Barrows and Mayor Olson. Motion failed.

Mayor Olson asked for a vote on the original motion. Voting yes was Council Member Nystrom and Barrows and Mayor Olson. Voting no was Council Member Cross. Motion carried.

**4. Vacation of Drainage & Utility Easement for properties located on Oakwood Drive and legally described as Lot 3 and Lot 4, Block 7, Jacklitch Estates:**

- 1. PUBLIC HEARING at 7:00 p.m. or shortly thereafter.**
- 2. Adopt Resolution 2018-033 Approving vacation of a 10' wide Drainage and Utility Easement over the lot line between Lot 3 and Lot 4, Block 7, Jacklitch Estates, according to the recorded plat thereof, on file in the Crow Wing County Recorder's office contingent on a signed assessment agreement for the two parcels being combined as one**

Community Development Director Doty explained the request is for a vacation of easement. There are two separate lots and the request is to vacate the easements along the shared property line. There is an administrative application to consolidate the two lots.

Mayor Olson opened the public hearing at 7:28 p.m. and closed the public hearing at 7:28:15 p.m. after hearing no public comments.

**MOTION** by Council Member Nystrom, seconded by Council Member Barrows to Adopt Resolution 2018-033 Approving vacation of a 10' wide Drainage and Utility Easement over the lot line between Lot 3 and Lot 4, Block 7, Jacklitch Estates, according to the recorded plat thereof, on file in the Crow Wing County Recorder's office contingent on a signed assessment agreement for the two parcels being combined as one. Motion carried unanimously.

**B. Approve Right of Entry Agreement with Lakes Area Habitat for Humanity**

City Administrator Chapulis explained the City is looking to partner with Habitat for Humanity for the preservation of the houses acquired as part of the Cypress Drive project. The third lot created some challenges and staff will look for alternatives. This

project has a tight time line to be completed by July 1. City Administrator Chapulis asked the Council to consider the approval of the agreement to allow Habitat for Humanity to enter the homes to begin work to move the homes.

**MOTION** by Council Member Cross, seconded by Council Member Barrows to Approve Right of Entry Agreement with Lakes Area Habitat for Humanity. Motion carried unanimously.

**9. Council Comments**

**A. Mark Cross:** Council Member Cross reminded motorists to watch out for motorcycles.

**10. City Administrator's Report**

**11. City Attorney's Report**

City Attorney Person explained the condemnation hearing was held on Monday for the Cypress Drive and Excelsior Road projects. The City now has title to the properties and the projects are moving forward.

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

Attorney Person asked the Council to enter into a closed session under Minnesota Statute 13D.05, subd. 3 (c), to discuss the purchase of property related to the Cypress Drive project.

**MOTION** by Council Member Barrows, seconded by Council Member Cross to enter into a closed session at 7:32 p.m. Motion carried unanimously.

**MOTION** by Council Member Cross, seconded by Council Member Nystrom to return to the open session at 7:54 p.m. Motion carried unanimously.

City Attorney explained he misspoke as there were two properties for Council discussion. The first property was to consider accepting the Ashabee offer.

**MOTION** by Council Member Cross, seconded by Council Member Barrows to accept the offer to settle on the terms set forth in the settlement for the Ashabee property. Motion carried unanimously.

Attorney Person explained the Council consensus on the Peterson property is for staff to continue negotiating.

**12. Adjourn**

**MOTION** by Council Member Cross, seconded by Council Member Nystrom to adjourn at 8:24 p.m. Motion carried unanimously.

Approved by:

Respectfully submitted,

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Darrel Olson

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Kelly Steele

Mayor

Assistant City Administrator