

**BAXTER CITY COUNCIL MINUTES**  
**May 20, 2014**

Mayor 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.

MEMBERS PRESENT: Council Members Todd Holman, Jim Klein, Rob Moser, Mark Cross, and Mayor Darrel Olson.

MEMBERS ABSENT: None.

STAFF PRESENT: Community Development Director Josh Doty, Public Works Director/City Engineer Trevor Walter, City Administrator Gordon Heitke, Assistant City Administrator/Clerk Kelly Steele, Police Chief Jim Exsted, and City Attorney Brad Person.

**SPECIAL PRESENTATION SHERIFF DAHL**

Sheriff Dahl provided various updates including, texting while driving statistics, seat belt use statistics, and Towards Zero Death program details.

**CONSENT AGENDA**

**MOTION** by Council Member Cross, seconded by Council Member Moser to approve the Consent Agenda. Motion carried unanimously.

- A. Approve City Council Minutes from May 6, 2014
- B. Approve City Council Work Session Minutes from May 6, 2014
- C. Approve the Payment of Bills and Finance Report
- D. Approve Special Event Permit for Lakes Country Triathlon on August 24<sup>th</sup>, 2014 at Whipple Beach.
- E. Approve Liquor License Amendment for Boomer Pizza to Allow Outdoor Liquor Sales and Consumption
- F. Accept the Utilities Commission Minutes from May 7, 2014
  1. Accept the WSB Clearwater Road Traffic Study and start implementation as budgets allow of the four recommendations
  2. Approve the Falcon Drive Plans and Specifications and move forward with Chapter 429 process in 2014.
- G. Accept the Special Utilities Commission Minutes of May 14, 2014
  1. Approve the 2014 Sealcoating Project with Crow Wing County Highway Department and request a change order for the addition of Douglas Fir Drive, Hinckley Road and Cypress Drive to meet the budgeted amount of \$325,000.00
  2. Approve Alternate No. 2 for trail maintenance and request a change order to revise trail work quantities to meet the allocated budget of \$15,000.00
- H. Accept Crow Wing County Highway Department Agreement for 2014 Chip Sealing
- I. Approve Ordinance No. 2014-17 Amending Text of Title 8 Special Assessments 1-8-Deferral and Ordinance No. 2014-18 Summary of Ordinance No. 2014-17 Amending Text of Title 8 Special Assessments 1-8-1: Deferral
- J. Approve Revision to Section IV-C5 of the Special Assessment Policy

- K. Appoint Seasonal Public Work Maintenance Employee
- L. Approve Permit for Retail Sale of Fireworks

### **OTHER BUSINESS**

#### **7<sup>th</sup> Annual Stormwater Public Meeting (MS4) at 7:15 p.m.**

Mr. Walter explained the City is required by the State of Minnesota, under the MS4 permit, to conduct an annual public meeting. The objective of the MS4 permit is to remove pollutants from stormwater. The purpose of the meeting is to inform the public on the status of the compliance of the permit, to educate the public on the importance of stormwater management, and to hear public comments on the storm water pollution prevention plan. Mr. Walter highlighted some of the storm water repair projects completed in 2013.

### **PLANNING & ZONING ACTIONS**

#### **Adopt Resolution No. 2014-29 Approving Findings of Fact for rezoning, Ordinance No. 2014-13 and Resolution No. 2014-30 approving Preliminary and Final Plat for “Pine Grove Estates” for the construction of two apartment buildings on Clearwater Road, west of 7393 Clearwater Road**

The request is for a rezoning from C2 to R3 and a plat to allow the construction of two apartment buildings on Clearwater Road. In April, the Council authorized the completion of a traffic study for the Clearwater Road area. The traffic study identified the area of the specific site would operate at a level of service A. The study found the access locations proposed for the development to be acceptable and a twelve-foot wide pedestrian trail could fit in the right-of-way on the south side of Clearwater Road. The Long Range Planning Commission has reviewed the request and is supportive. The proposed site is part of a larger block of C2 zoned land. Mr. Doty noted the block of property to the south, zoned C2, and does have a PUD approved for higher density residential development. Staff reviewed the site plan and found it meets requirements. The plat requires the dedication of right-of-way. A review by the Architectural Review Commission is required before the project can move forward. The Planning and Zoning Commission is recommending approval based on the attached resolutions, ordinances, findings, and conditions. Mr. Doty explained landscaping requirements would be required to be met.

**MOTION** by Council Member Holman, seconded by Council Member Moser to Adopt Resolution No. 2014-29 Approving Findings of Fact for rezoning, Ordinance No. 2014-13 and Resolution No. 2014-30 approving Preliminary and Final Plat for “Pine Grove Estates” for the construction of two apartment buildings on Clearwater Road, west of 7393 Clearwater Road. Motion carries with Council Member Holman, Moser, Klein and Mayor Olson voting yes and Council Member Cross abstaining.

#### **PUBLIC HEARING to Discuss Vacating Property for Clearwater Addition to Baxter.**

Mr. Doty explained the public hearing relates to the project previously approved. The proposal will combine four lots into two lots.

Mayor Olson opened the public hearing at 7:31 p.m. Hearing no public comments, Mayor Olson closed the public hearing at 7:31:15 p.m.

**MOTION** by Council Member Moser, seconded by Council Member Holman to approve the vacation. Motion carried with Council Members Moser, Holman, and Klein and Mayor Olson voting yes and Council Member Cross abstaining.

**Adopt Resolution No. 2014-38 Vacating drainage and utility easements for Lots 1, 2, 3 and 4, Block 1, Clearwater Addition to Baxter**

**MOTION** by Council Member Holman, seconded by Council Member Moser to adopt Resolution No. 2014-38 Vacating drainage and utility easements for Lots 1, 2, 3 and 4, Block 1, Clearwater Addition to Baxter. Motion carries with Council Members Moser, Holman, Klein, and Mayor Olson voting yes and Council Member Cross abstaining.

**Adopt Resolution No. 2014-31 Approving Conditional Use Permits for outside storage and cross access for Lot 1 Block 1, Resolution No. 2014-32 Approving Conditional Use Permits for outside storage and cross access and an Interim Use Permit for temporary accessory use for Lot 2, Block 1, and Resolution No. 2014-33 Approving Preliminary and Final Plat for “Potlatch Addition to Baxter” to subdivide one lot into two lots and two outlots for property located at 3855 Independence Road**

Mr. Doty explained the agenda item comprises a number of different requests. Simonson Lumber and Brock White are located on south side of the City. There is no development proposed. Simonson does propose some outside storage. Staff reviewed park dedication fees and access to the existing street. Improvement to the street would be required to move forward with project. The interim use permit would allow for temporary lumber use on east side. There would not be a principal use because there is no office. The interim use permit would expire after seven years. The timeline is to allow time for purchasing the easterly property.

**MOTION** by Council Member Cross, seconded by Council Member Klein to adopt Resolution No. 2014-31 Approving Conditional Use Permits for outside storage and cross access for Lot 1 Block 1, Resolution No. 2014-32 Approving Conditional Use Permits for outside storage and cross access and an Interim Use Permit for temporary accessory use for Lot 2, Block 1, and Resolution No. 2014-33 Approving Preliminary and Final Plat for “Potlatch Addition to Baxter” to subdivide one lot into two lots and two outlots for property located at 3855 Independence Road. Motion carries unanimously.

**Adopt Resolution No. 2014-34 Approving Findings of Fact for rezoning, Ordinance No. 2014-14 and Resolution No. 2014-35 approving a Conditional Use Permit Amendment to allow a Church Use for property located at 6785 Woida Road**

Mr. Doty explained the request is for a rezoning from RS to R1 and a conditional use permit amendment to allow a church use on the subject property. There would be reconstruction in the interior space of the church. Staff has reviewed the parking lot expansion and would like proof of a parking plan to show where additional parking could be added. The Utilities Commission and the Planning and Zoning Commission support the request.

**MOTION** Council Member Moser, seconded by Council Member Klein to Adopt Resolution No. 2014-34 Approving Findings of Fact for rezoning, Ordinance No. 2014-14 and Resolution No. 2014-35 approving a Conditional Use Permit Amendment to allow a Church Use for property located at 6785 Woida Road. Motion carries unanimously.

**Adopt Resolution No. 2014-36 Approving Preliminary and Final Plat for “Gehrls Addition to Baxter” to consolidate three parcels into two parcels to allow a vacant lake lot for property located at 13364 Memorywood Drive**

The reorientation would create two lots with access on Memorywood Drive. Additional right-of-way would be required. After further research, the vacated property already paid park dedication fees. The plat approves the lot arrangement, meeting the minimum lot size and width.

**MOTION** by Council Member Cross, seconded by Council Member Moser to adopt Resolution No. 2014-36 Approving Preliminary and Final Plat for “Gehrls Addition to Baxter” to consolidate three parcels into two parcels to allow a vacant lake lot for property located at 13364 Memorywood Drive. Motion carries unanimously.

**Adopt Resolution No. 2014-37 Approving a Conditional Use Permit to allow a secondary garage and driveway on a corner lot for property located at 12836 Parkwood Drive**

The property will have west access to Parkwood Drive and a second access to Parkwood Court with the second garage. The garage will be a 28’ by 28’ detached garage, which meets setbacks. The permit contains a condition to locate property lines prior to issuance of permit. The Utilities Commission recommended the dam be relocated and driveway would be used as the dam. The Planning and Zoning Commission recommended approval. Staff did not evaluate if lot would be able to be subdivided.

**MOTION** by Council Member Holman, seconded by Council Member Moser to Adopt Resolution No. 2014-37 approving a Conditional Use Permit to allow a secondary garage and driveway on a corner lot for property located at 12836 Parkwood Drive. Motion carries unanimously.

**PUBLIC HEARING to Discuss Vacating Property for Noah’s Addition to Baxter.**

Mr. Doty explained the request is to vacate easements for property and an administrative subdivision to combine both lots to allow building a garage. The vacation of easements is

required. The applicant, Bobbi Thiesse, stated she is not comfortable signing an agreement that states she will pay a future assessment without knowing the assessment policy in place at the time of assessment. The City wants to be fair with the entire neighborhood; in order to be fair an agreement is required. Ms. Thiesse is making the second lot unbuildable by the placement of the garage. Staff will work with Mr. Person to draft an agreement agreeable by both parties.

**Adopt Resolution No. 2014-39 Vacating drainage and utility easements for Lots 5 and 6, Block 3, Noah's Addition to Baxter**

**MOTION** by Council Member Cross, seconded by Council Member Moser to table the adoption of Resolution No. 2014-39 Vacating drainage and utility easements for Lots 5 and 6, Block 3, Noah's Addition to Baxter. Motion carries unanimously.

**Approve Ordinance No. 2014-15 Regulating Mobile Vending and Ordinance No. 2014-16 Summary Publication Ordinance Regulating Mobile Vending and authorize an amendment to the city's adopted fee schedule to charge a non-refundable, non-prorated fee of \$300.00 for a mobile vending permit and a fee of \$35.00 for any permit amendments**

**MOTION** by Council Member Cross, seconded by Council Member Holman to table approval on Ordinance No. 2014-15 Regulating Mobile Vending and Ordinance No. 2014-16 Summary Publication Ordinance Regulating Mobile Vending and authorize an amendment to the city's adopted fee schedule to charge a non-refundable, non-prorated fee of \$300.00 for a mobile vending permit and a fee of \$35.00 for any permit amendments. Motion carries unanimously.

**Approve Potlatch Assessment Agreement for Independence Road**

**MOTION** by Council Member Cross, seconded by Council Member Moser to approve the Potlatch Assessment Agreement for Independence Road. Motion carries unanimously.

**Accept Potlatch 100% Petition for Independence Road 2014 Improvements**

Only one property owner is affected by the project.

**MOTION** by Council Member Moser, seconded by Council Member Cross to accept the Potlatch 100% petition for Independence Road 2014 improvements. Motion carries unanimously.

**Approve Resolution No. 2014-40 Declaring Adequacy of Petition and Ordering Preparation of Report**

**MOTION** by Council Member Cross, seconded by Council Member Moser to approve Resolution No. 2014-40 Declaring Adequacy of Petition and Ordering Preparation of Report. Motion carries unanimously.

**COUNCIL COMMENTS**

**Darrel Olson:** Mayor Olson explained he attended the heart institute open house on Sunday. The K-Kids organization recently planted five trees at Oscar Kristofferson Park.

### **CITY ADMINISTRATOR'S REPORT**

Governor Dayton has signed the tax bill, which includes the City of Baxter's tax increment financing and sales tax requests. The next step will be to seek voter approval in November.

Mr. Heitke explained Council will enter a closed session under Minnesota Statute 13D.05, Subd. 3 (c) (3).

Richard Dabill is seeking permission from the City to park vehicles on the Woida water tower property and off street parking on Woida Road for a June 21 estate sale. Woida Road does not accommodate off street parking. Staff has not identified any concerns with the request to park on the water tower site. City Attorney Person explained the city has an exposure when allowing the use of city property.

**MOTION** by Council Member Klein, seconded by Council Member Holman to allow parking on the Woida water tower site for the June 21 estate sale. Motion carries unanimously.

### **CITY ATTORNEY'S REPORT**

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

City Attorney Person explained the Council will be entering a closed session under Minnesota Statute 13D.05, Subd. 3(c)(3) to develop an offer for the purchase of real property. The parcels to be discussed are six properties along Garland Road, 6549 Woida Road, 6971 Woida Road, 14981 Franklin Drive, and non-user agreements.

**MOTION** by Council Member Moser, seconded by Council Member Holman to closed the meeting. Motion carries unanimously.

Mayor Olson resumed the regular meeting at 8:58 p.m.

City Attorney Person explained based upon the consensus reached in the closed session, he will present four motions for the Council to consider.

**MOTION** by Council Member Cross, seconded by Council Member Moser to accept the settlement offer proposed by the landowner for the six properties located on Garland Drive. Motion carries unanimously.

**MOTION** by Council Member Cross, seconded by Council Member Moser to approve the settlement offer by the landowner for 6549 Woida Road. Motion carries unanimously.

**MOTION** by Council Member Cross, seconded by Council Member Moser to present our settlement offer for 6971 Woida Road and if accepted, it would resolve the matter, if our offer is not accepted, City Attorney Person is directed to initiate condemnation proceedings on Thursday morning. Motion carries unanimously.

**MOTION** by Council Member Cross, seconded by Council Member Moser to authorize City Attorney Person to proceed with commencing condemnation proceedings for 14981 Franklin Drive by Thursday morning. Motion carries unanimously.

City Attorney Person explained there would be no action taken on the remaining outstanding non-user agreements.

**ADJOURNMENT**

**MOTION** by Council Member Cross, seconded by Council Member Moser to adjourn at 9:01 p.m. Motion carried unanimously.

Approved by:

Respectfully submitted,

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Darrel Olson  
Mayor

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Kelly Steele  
Assistant City Administrator/Clerk