

**BAXTER CITY COUNCIL MINUTES**  
**July 21, 2015**

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 Quinn Nystrom, Steve Barrows, Todd Holman, and Mark Cross

COUNCIL MEMBERS ABSENT: None

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

**CONSENT AGENDA**

- A. Approve City Council Minutes from July 7, 2015
- B. Approve City Council Work Session Minutes from July 7, 2015
- C. Approve City Council Minutes from July 13, 2015
- D. Approve City Council Minutes from July 16, 2015
- E. Approve the Payment of Bills and Finance Report
- F. Approve Architectural Review Commission Minutes from July 2, 2015
- G. Approve Planning Commission Minutes from July 14, 2015
- H. Approve the Hiring of an Entry Level Police Officer to Fill Vacancy with the Resignation of Sgt. Eric Sullivan
- I. Approve the Process to Start the Internal Promotion of a Baxter Police Officer to the Position of Sergeant Due to the Vacancy Created by the Resignation of Sgt. Sullivan
- J. Approve the Special Event Permit Application for the MN Adult & Teen Challenge Walk for Hope Event
- K. Accept Utilities Commission Minutes of July 8, 2015
  - 1. Approve the R. L. Larson Excavating Partial Pay Estimate No. 2 in the amount of \$1,069,653.92 for the 2015 Isle Drive Extension Improvement Project

2. Approve the WSB Proposal for Project Development of the Baxter Water Quality Project for the Whiskey Creek Tributary Project in the not to exceed amount of \$7,000.00 with funding coming out of the Storm Water Enterprise Fund
3. Approve the Pratt's Affordable Excavating Change Order No. 5 in the amount of \$5,854.75 for sprinkler relocation and repair at Lakeland Veterinary Hospital and completion the Section 6 Stormwater Ditch located east of Wildflower Drive
4. Approve the Pratt's Affordable Excavating Partial Pay Estimate No. 9 in the amount of \$233,633.12 for the 2014 Wildflower Drive, Franklin Drive and Woida Road Improvements Project
5. Approve the Anderson Brothers Partial Pay Estimate No. 1 in the amount of \$292,860.69 for the 2015 Excelsior Road Improvements Project
6. Approve the SEH, Inc. Proposal for Professional Engineering Services for the 2016 Fairview Road Full Depth Reclamation Improvement Project in the not to exceed amount of \$68,628.00
7. Approve the Bolton and Menk Foley Road Right-of-Way Option A for Sketch and Description in the not to exceed amount of \$9,350.00 for the Lift Station No. 3 Reroute Project
8. Approve the 2016 Golf Course Drive Feasibility Report
9. Approve the 2015 Independence Road Plans and Specifications
10. Approve the 2015 Inglewood Drive Plans and Specifications contingent on City Engineers final approval

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

**OTHER BUSINESS**

**Planning & Zoning Actions**

**Adopt Resolution No. 2015-66 Approving a Preliminary and final plat to be named "Vaughans Lots" to allow one lot of record for an existing single family home and one outlot located at 5749 Laverne Circle**

Community Development Director Doty explained the applicant is requesting approval of a preliminary and final plat to subdivide one lot into one lot and one outlot to be known as Vaughans Lots for property located at 5749 Laverne Circle.

The north lot would be created for an existing single family home and the south outlot would be created for future development. Although the City has had preliminary discussions regarding the potential development of the south outlot, no formal application is proposed for development at this time.

Staff has reviewed the application for consistency with the City Code requirements, as well as City policies, and found the lots meet the zoning code.

The applicant would dedicate 7-feet of additional right-of-way on Laverne Circle and along Art Ward Drive to provide the right-of-way needed to have 80 feet along these corridors. In addition, the applicant would provide additional right-of-way along the south portion of the site along Art Ward Drive beyond 7-feet to match up with the right-of-way on the city-owned lot to the south. Staff finds the proposed right-of-way complies with city requirements.

Park dedication is not required for the existing single-family home lot. Park dedication would be required at the time of a re-plat application to develop the south outlot.

The existing garage and shed would not meet setback requirements. Staff finds these structures are existing and are therefore considered legally non-conforming to setback requirements and may remain in their existing location. Community Development Director Doty explained the potential trail connection to OK Park would be north of the subject property.

The Utilities Commission has reviewed the application and recommends approval with no conditions. The Planning and Zoning has also reviewed the application and recommends approval subject to the conditions and findings in the resolution.

**MOTION** by Council Member Cross, seconded by Council Member Nystrom to Adopt Resolution No. 2015-66 Approving a Preliminary and final plat to be named “Vaughans Lots” to allow one lot of record for an existing single family home and one outlot located at 5749 Laverne Circle. Motion carries unanimously.

**Adopt Resolution No. 2015-67 Approving an Interim Use Permit to allow a private stable for property located at 4186 Mapleton Road**

Community Development Director Doty explained the applicants are requesting approval of an interim use permit to allow a private stable. The property owner previously had a horse stable on the property, but had moved away from Baxter and now has returned. The applicant is proposing to bring their horses back. The applicant owns two lots and the entire property is fenced. Therefore, there would be fencing and a horse pasture on the vacant property with no principal use.

The zoning ordinance allows stables with approval of an interim use permit, provided they are located 300 feet from the property line. The applicant has an existing barn located 30 feet from the east property line, an existing corral and riding area located 10 feet from the east property line, and a fence located around the perimeter of their two properties. The applicant has stated they do not wish to move the existing barn, corral/riding area or fences, as they are existing

improvements on the property. Staff finds the existing structures are legally non-conforming and they can allow the existing structures to remain in their existing location through the approval of the interim use permit.

Staff recommends a deed restriction be placed on the property to tie the two parcels together related to the interim use permit. The deed restriction would not allow the sale of the vacant parcel to another entity unless the interim use permit allowing horses is revoked for the vacant property. City Attorney Person has drafted the agreement.

The zoning ordinance allows an interim use permit for fifteen years for two horses.

**MOTION** by Council Member Barrows, seconded by Council Member Cross to adopt Resolution No. 2015-67 Approving an Interim Use Permit to allow a private stable for property located at 4186 Mapleton Road. Motion carries unanimously.

**Adopt Resolution No. 2015-68 Approving a Variance to allow an approximately 1,736-square foot detached accessory structure, where 1,152-square feet is the maximum allowed by the zoning ordinance for property located at 4612 Michelle Circle**

Community Development Director Doty explained the applicant has requested a variance to allow the construction of a 28-foot by 62-foot (1,736-square foot) detached accessory structure where 1,152 square feet is the maximum allowed by the zoning ordinance for property located at 4612 Michelle Circle. The applicants currently have a 28-foot by 24-foot (672 square foot) detached accessory building. With the variance, the applicant would construct a 28-foot by 38-foot (1,064 square foot) addition onto the backside of the existing garage. The proposal would combine the two buildings into one building. The property does not have an attached garage. The zoning ordinance allows a maximum of 1,800 square feet of total accessory structure square foot per lot. However, the zoning ordinance established a maximum size of 1,152-square feet for a single detached accessory structure. The applicant does not wish to build two detached accessory structures totaling 1,800 square feet on the property and therefore is requesting a variance to allow one larger detached building.

Staff is recommending a number of findings, such as the placement of the garage must be in the rear yard, the applicant could add 1,800 square feet of detached garage with a 6' foot separation of two garages, but the applicant would like to save a tree, and the lot is unique due to size and position. Council Member Barrows explained from the street, the garage would not be visible. The siding of the new garage will be consistent with the siding on the home.

**MOTION** by Council Member Cross, seconded by Council Member Barrows to adopt Resolution No. 2015-68 Approving a Variance to allow an approximately 1,736-square foot detached accessory structure, where a 1,152-square foot is the maximum allowed by the zoning ordinance for property located at 4612 Michelle Circle. Motion carried unanimously.

**Adopt Resolution No. 2015-69 Approving a Preliminary and Final Plat to be named “Fourth Addition To Baxter Industrial Park Phase 3” and Resolution No. 2015-70 Approving a Conditional Use Permit for joint access to allow the construction of a manufacturing building for property located at the Northeast corner of Douglas Fir Drive and Hasting Road**

Community Development Director Doty explained the City of Baxter is requesting approval of a preliminary and final plat to allow two lots and an outlot to be named Fourth Addition to Baxter Industrial Park Phase 3. The City is also requesting a conditional use permit to allow joint access for property located at the northeast corner of Douglas Fir Drive and Hastings Road. The plat would allow the City to convey the southern lot for the construction of a manufacturing building named Avantech. The City would retain ownership of the north lot for future development. Park dedication fees would be required for the south property. Park dedication would be deferred on the north lot until the city sells the north lot. Right-of-way is not needed, as it was dedicated on a previous plat.

Staff notes both of the proposed access points comply with the city’s minimum spacing requirements. Staff recommends controlling further access on the subject plat from what is proposed. Since the Planning and Zoning Commission meeting, Avantech is requesting one additional future access on the east side of the site. Staff finds the proposed future access would comply with the City’s requirement.

Staff notes the recently approved Comprehensive Plan indicates three separate trail re-routes for the Paul Bunyan State Trail and one possible trail re-route is along Hastings Road. Although a trail easement could be required with the plat, at this time staff has not gone through the public process to determine a new route for this section of the trail. Therefore, staff finds requiring a trail easement is not appropriate at this time.

The City is requesting a conditional use permit to allow joint access between the future Avantech property to the south and the City-owned property to the north. The zoning ordinance permits the typical 110-foot side setback for parking and drive aisles to be reduced to zero to allow joint driveway and parking with approval of a conditional use permit. Staff has added a condition to the resolution that the applicant shall submit a cross access easement for approval by the city attorney and the easement is recorded with both properties.

The Utilities Commission has reviewed the application and recommends approval subject to three conditions. The Planning and Zoning Commission recommends approval of the preliminary and final plat and conditional use permit for joint access, subject to the findings and conditions in the proposed resolutions.

**MOTION** by Council Member Cross, seconded by Council Member Barrows to Adopt Resolution No. 2015-69 Approving a Preliminary and Final Plat to be named “Fourth Addition To Baxter Industrial Park Phase 3” and Resolution No. 2015-70 Approving a Conditional Use Permit for joint access to allow the construction of a manufacturing building for property located at the Northeast corner of Douglas Fir Drive and Hasting Road. Motion carries unanimously.

**Adopt Resolution No. 2015-71 Denying a request for an Architectural Tier Map amendment**

Community Development Director Doty explained the existing building is located in tier one and future additions would be located in tier two. Staff finds a single tier would make more sense. The Architectural Review Commission has reviewed the request and recommends denial for the tier map change. Community Development Director Doty explained the proposed resolution is for denial. Staff would need time to draft findings for approval.

**MOTION** Council Member Cross, seconded by Council Member Holman to ask staff to draft a resolution for approval.

Council Member Holman asked for a friendly amendment to have consistency for the three street frontages.

Council Member Cross accepted Council Member Holman's amendment. Motion carries unanimously.

**PUBLIC HEARING at 7:00 p.m. or thereafter to discuss vacating all drainage and utility easements for Lots 2 and 3, Block 1 and Outlot C, Baxter Industrial Park Phase 3.**

Mayor Olson opened the public hearing at 7:30 p.m. Hearing no public comments, Mayor Olson closed the public hearing at 7:30:15 p.m.

**Adopt Resolution No. 2015-72 vacating all drainage and utility easements for Lots 2 and 3, Block 1 and Outlot C, Baxter Industrial Park Phase 3**

**MOTION** by Council Member Cross, seconded by Council Member Holman to adopt Resolution No. 2015-72 vacating all drainage and utility easements for Lots 2 and 3, Block 1 and Outlot C, Baxter Industrial Park Phase 3. Motion carries unanimously.

**Adopt Resolution No. 2015-73 Approving Findings of Fact, Resolution No. 2015-74 Approving a Planned Unit Development General Plan, Ordinance No. 2015-11 and Summary Ordinance No. 2015-12, approving a Rezoning from R-1 (Low Density Residential) to PUD (Planned Unit Development) and a PUD general plan to allow a group home with up to 14 beds for Port to be located at 13401 Birch Drive**

Community Development Director Doty explained the applicant is requesting approval of a rezoning from R-1 to PUD and a PUD general plan to allow a group home with up to 14 beds as a principal use of the property. For many previous years, the subject property has been used for a similar use. Specifically, there is a conditional use permit approved for the property to allow a residential group home for no more than 10 people ages 18 to 24 with a mental health diagnosis.

The property is currently zoned R-1, which does not allow a group home serving 14 people. A rezoning is therefore required to allow the use. Staff finds the request is consistent with the

comprehensive plan and the zoning district. Staff finds there is adequate infrastructure and there is enough buffer to support the rezoning.

The proposed PUD ordinance allows a group home serving 14 people as a principal use plus all the permitted, accessory, and interim uses allowed in the R-1 district as permitted uses. Staff has proposed not to include the conditional uses in the PUD, as they may be inappropriate for the site. No site review is required at this time since the applicant is not suggesting any construction as part of this application.

The Planning and Zoning Commission recommends approval of the rezoning and PUD general plan, subject to the findings of no parking shall occur on the street at any time; there shall be no net increase in traffic; the use shall not cause increased crime in the neighborhood; and the facility shall not serve persons diagnosed with pedophilia.

Community Development Director Doty explained he received a letter from the applicant addressing parking and security concerns.

Mayor Olson asked if any audience members would like to speak.

Vicki Randall, 13142 Birch Drive. Ms. Randall explained she lives directly across the street from the proposed facility. She has spoken to the other neighbors about the proposal and has gathered signatures on a petition to deny the request. Ms. Randall explained there is a daycare across the street from the facility and does not think this type of use belongs in a residential neighborhood. Ms. Randall read a letter from Chris and Cyndy Murdock, 8176 Greenwood Road. The Murdock's were unable to attend the meeting and would like to voice their opposition to the PORT facility moving into their neighborhood.

Jerry Negen, 13384 Birch Drive. Mr. Negen explained he attended the Planning and Zoning Commission meeting. Mr. Negen explained the facility needs to exist somewhere. The previous facility always had parking along the street. Mr. Negen presented crime statistics he received from the Brainerd Police Department regarding the PORT facility located in Brainerd. Mr. Negen also expressed concerns with snow plowing. Mr. Negen explained there is proposed to be three employees and a PORT van for five off-street parking spaces. There will be no parking for visiting family members. Mr. Negen is concerned with the resale values of the neighborhood homes.

Kim Horn, 8150 Greenwood Road. Ms. Horn explained she is concerned with the noise from the facility and home resale values. Ms. Horn explained she has lived in her home for 20 years. The previous facility generated numerous police calls and alarms sounding late at night. Ms. Horn is opposed to the PORT facility.

Molly Blood, 13430 Birch Drive, explained her mother lives across the street and is the caregiver for her two children. Ms. Blood explained she has worked in a group home for five years. It is common for residents of a group home to run away from the facility and the facility often has loud noises. Ms. Blood is concerned for the wellbeing of her children. Her mother would not

have purchased the home last November if she knew the PORT facility would be starting. As a family, they are opposed the facility.

Council Member Barrows explained having been at the Planning and Zoning Commission meeting last week, he generated the questions answered in the PORT email regarding parking and security concerns. Council Member Barrows explained he is disappointed PORT staff is not in attendance to answer additional questions. The proposed resident numbers are more than the staffing level can manage. The City cannot allow an unsafe situation. The question of where is the appropriate placement for this type of facility has merit. Because PORT is not here, it shows they are not as committed to this project.

Council Member Nystrom explained after hearing from the neighbors, she would stand opposed to increasing the beds to 14. The proposed location is not the right location due to close proximity of residential homes.

Council Member Holman asked for clarification if the existing conditional use permit allows for ten beds. Community Development Director Doty explained the existing conditional use permit does allow ten beds and the existing R-1 zoning allows for this use and the approval is for increasing the number of beds and lowering the age from the existing approval.

Community Development Director Doty explained the existing conditional use permit on the property allows for a ten-bed facility and the City cannot prevent this use. The Council could agree the existing use is adequate. If the Council would like to deny the application, staff should be directed to prepare a resolution to deny, for consideration at the next council meeting. The Council discussed the rules in place at the time of the original approval, including state law that allows group homes in residential districts.

Council Member Holman asked staff to develop a resolution to deny the application.

Attorney Person explained the capacity and impact of the application should be the concern of the council, not the proposed age range of the residents of the facility.

The conditional use permit was approved in 2005 for a mental health facility, not a development facility.

**MOTION** by Council Member Barrow, seconded by Council Member Nystrom to deny the application.

Attorney Person explained either staff needs to develop denial language tonight, or if there were not a concern with the 60-day rule, it would be advisable to allow staff additional time to draft the findings for denial for the council to consider at the next council meeting.

Council Member Barrows agreed to Attorney Person's amendment. Motion carries unanimously.

**Adopt Resolution No. 2015-75 approving a Conditional Use Permit to allow grading related to the construction of a single-family home on a legally non-conforming riparian lot on Red Sand Lake located at 14877 Lynndale Lane**

Community Development Director Doty explained the applicant is requesting approval of a conditional use permit to allow grading related to the construction of a single-family home on a legally non-conforming riparian lot on Red Sand Lake located at 14877 Lynndale Lane. The zoning ordinance requires a 40,000 square foot lot and the subject property is 30,684. A conditional use permit is required for grading a riparian parcel. The applicant would like to begin construction immediately, if approved. Community Development Director Doty explained one condition on the approval is a best management plan is submitted. The Planning and Zoning Commission has recommended approval.

**MOTION** by Council Member Barrows, seconded by Council Member Cross to adopt Resolution No. 2015-75 approving a Conditional Use Permit to allow grading related to the construction of a single family home on a legally non-conforming riparian lot on Red Sand Lake located at 14877 Lynndale Lane. Motion carries unanimously.

**Schedule Date for City Administrator Annual Review**

Council Member Holman explained City Administrator Heitke is out on medical leave and indicated his best guess to schedule the review would be the last week in August. Council Member Holman recommended scheduling the review for Tuesday, August 25. Council Member Nystrom explained there is a budget meeting scheduled for August 25. The Council consensus was to conduct City Administrator Heitke’s review after the budget meeting.

**MOTION** by Council Member Holman, seconded by Council Member Cross to schedule the City Administrator review for Tuesday, August 25. Motion carries unanimously.

**COUNCIL COMMENTS**

**Steve Barrows:** Council Member Barrows thanked the city for the opportunity to attend the League of Minnesota Cities Annual Conference. Council Member Barrows explained the Woida Trail dedication was held this past Saturday and a number of staff, residents, and royalty attended and suggested the City should conduct more of these events in the future. Council Member Barrows expressed his appreciation for staff allowing residents to dispose of their storm debris at the north water tower.

**Todd Holman:** Council Member Holman explained he attended the League of Minnesota Cities policy meeting on Monday. Attendance at the meetings allows the opportunity for input regarding League of Minnesota Cities legislative policy. Council Member Holman will report back to the council after the remaining two meetings. All of the meeting materials can be found on the League of Minnesota Cities website. Council Member Holman would like to present items at the policy committee meeting that would represent Baxter or greater Minnesota cities.

**Darrel Olson:** Mayor Olson thanked staff for their efforts during the storm. Mayor Olson also thanked the Journey North Community Church, WSN, and Council Member Nystrom for providing supplies for the Woida Trail Dedication.

Chief Exsted explained the Night to Unite event has been rescheduled from August 4 to August 11 due to the Crow Wing County Fair.

**MOTION** by Council Member Holman, seconded by Council Member Cross to change the August 5 council meeting back to the normal date of August 4. Motion carries unanimously.

**CITY ADMINISTRATOR’S REPORT**

Assistant City Administrator Steele explained public works maintenance employee Scott Shelito has successfully completed his probation period and staff is recommending council approve Mr. Shelito’s status as regular employee.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to approve the regular employee status of Scott Shelito. Motion carries unanimously.

Assistant City Administrator Steele asked if Council Member Cross’ motion to approve Resolution 2015-70 also included Resolution 2015-69. Council Member Cross indicated he also stated approval of Resolution 2015-69 in his motion.

**ADJOURNMENT**

**MOTION** by Council Member Cross, seconded by Council Member Barrows to adjourn the meeting at 8:20 p.m. Motion carries unanimously.

Approved by:

Respectfully submitted,

\_\_\_\_\_  
Darrel Olson  
Mayor

\_\_\_\_\_  
Kelly Steele  
Assistant City Administrator/Clerk