

**BAXTER CITY COUNCIL MINUTES**  
**August 22, 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, Todd Holman, and Mark Cross were present.

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

**3. Pledge of Allegiance**

All joined Mayor Darrel Olson in the Pledge of Allegiance

**4. Guest Presentation**

**A. Baxter Miss United States Queens**

Mr. Bill Musel and each of the newly crowned queens, Haley Helmin, Sarah Rhoda, Ava Aanes, Amanda Imgrund, and Michelle Kitchenhoff introduced themselves and explained their platforms.

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

City Administrator Chapulis asked to add Consent Agenda item 7 I. Approve Appointment to the Seasonal Position of Roadside Mower for the 2018 Summer to the agenda.

**6. Public Comments**

None.

**7. Consent Agenda**

- A. Approve City Council Minutes from August 7, 2018
- B. Approve City Council Work Session Minutes from August 7, 2018
- C. Approve the Payment of Bills and Finance Report
- D. Approve 2018-2019 Contract for Chamber of Commerce Services
- E. Adopt Resolution 2018-057, Approving the Issuance of Healthcare Facilities Revenue Bonds by the Duluth Economic Development Authority to Refinance a Project Located in the City of Baxter
- F. Accept Planning Commission Minutes from August 15, 2018
- G. Accept Cemetery Commission Minutes from July 16, 2018
  1. Deny the Vold cemetery lots reimbursement request as per past practice.
- H. Accept Utilities Commission Minutes from August 8, 2018
  1. Approve Phase 4 of Pine Grove Estates Phase Two of Baxter LLLP Development Agreement
  2. Approve the SMAART Expansion Baxter 100-Year Stormwater Plan Review with contingencies.
  3. Approve the SMAART Enterprises Stormwater Facilities Maintenance Agreement.
  4. Approve the GM Contracting Inc. Partial Pay Estimate No. 2 in the amount of

- \$260,614.60 for the 2018 Lift Station No. 3 Re-route Improvements Project.
5. Approve the Landwehr Construction Inc. Partial Pay Estimate No. 1 in the amount of \$75,122.71 for the 2018 Cypress Drive Improvements Project.
  6. Approve the BNSF Railway Company License for Bicycle Path/Pedestrian Walkway in the amount of \$9,660.00 which includes the BNSF Protective Liability Insurance for the 2018 Cypress Drive Improvements Project.
  7. Approve the Pratt's Affordable Excavating, Inc. Change Order No. 3 in the increased amount of \$63,023.81 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project.
  8. Approve Pratt's Affordable Excavating, Inc. Partial Pay Estimate No. 5 in the amount of \$318,794.46 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project.
  9. Approve the Anderson Brothers Construction Change Order No. 1 in the increased amount of \$105,821.48 for the 2018 Mill & Overlay and Full Depth Reclamation Improvements Project.
  10. Approve Anderson Brothers Construction Partial Pay Estimate No. 1 in the amount of \$317,753.75 for the 2018 Mill & Overlay and Full Depth Reclamation Improvements Project.
- I. Approve Appointment to the Seasonal Position of Roadside Mower for the 2018 Summer

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

**8. Pulled Agenda Items**

None.

**9. Other Business**

**A. Planning and Zoning Actions**

**1. Adopt Resolution 2018-058 Approving a Conditional Use Permit and Variance to allow a drive-through use for Walmart to be located at 7295 Glory Rd.**

Community Development Director Josh Doty explained the applicant has applied for a conditional use permit to allow grocery pick-up/drive through and a variance to allow the drive-through lanes to be located between the building and Isle Drive facing the public street. The city may revoke the conditional use permit if the drive isle becomes congested to the point where it is deemed a safety and public welfare issue. The revocation may only occur after a written warning is provided by the zoning inspector to Walmart in the form of a citation. Walmart will then have thirty days to address each warning and respond appropriately. The planning and zoning commission has recommended approval.

Council Member Cross asked to have the title zoning inspector changed to zoning administrator, which accurately describes the title of the position.

**MOTION** by Council Member Cross, seconded by Council Member Barrows to Adopt Resolution 2018-058 Approving a Conditional Use Permit and Variance to allow a drive-through use for Walmart to be located at 7295 Glory Road with

an amendment to change the title from zoning inspector to zoning administrator. Motion carried unanimously.

**2. Adopt resolution 2018-059 Approving a Conditional Use Permit for 14234 Memorywood Drive to allow a nonconforming structure on a riparian lot to be enlarged**

Community Development Director Josh Doty explained the applicant is requesting a conditional use permit to allow the expansion of a nonconforming structure, a garage, on a riparian lot. The property is not compliant with the ten-foot side yard setback. The planning and zoning commission has recommended approval.

**MOTION** by Council Member Barrows, seconded by Council Member Nystrom to Adopt resolution 2018-059 Approving a Conditional Use Permit for 14234 Memorywood Drive to allow a nonconforming structure on a riparian lot to be enlarged. Motion carried unanimously.

**3. Adopt resolution 2018-060 Approving Conditional Use Permits for 13607 Maplewood Drive to allow a nonconforming structure on a riparian lot to be enlarged and to allow grading related to the construction of a home addition**

Community Development Director Josh Doty explained the applicant is requesting a conditional use permit to allow the expansion of an existing garage, home, and two-story porch located over half of the existing one-story porch on a nonconforming structure on a riparian lot. The planning and zoning commission has recommended approval.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to Adopt resolution 2018-060 Approving Conditional Use Permits for 13607 Maplewood Drive to allow a nonconforming structure on a riparian lot to be enlarged and to allow grading related to the construction of a home addition. Motion carried unanimously.

**4. Adopt Ordinance No. 2018-011, Summary Ordinance No. 2018-012 and Findings of Fact Resolution 2018-069 Approving an ordinance amending the text of Title 10 of the City Code**

Community Development Director Josh Doty explained the amendment is a city-wide amendment submitted by Walmart. The request is to allow the outdoor display and sales of convenience items displayed by the principal use that directly relate to the principal use. Items may include windshield washer fluid, softener salt, fire wood, propane tanks for exchange, or other similar convenience items. The display area for such items shall not exceed 10% of the principal structure footprint and must be located on a surface that is allowable. The planning and zoning commission has recommended approval. The items for display and sale are limited to what is specified in the approval.

**MOTION** by Council Member Barrows, seconded by Council Member Nystrom to Adopt Ordinance No. 2018-011, Summary Ordinance No. 2018-012 and

Findings of Fact Resolution 2018-069 Approving an ordinance amending the text of Title 10 of the City Code. Motion carried unanimously.

5. **Approve the following for the redevelopment of the General Rental site located at 15248 State Highway 371**
  - i. **Adopt Ordinance No. 2018-013, Summary Ordinance No. 2018-014 and Findings of Fact Resolution 2018-061 approving an ordinance amending the text of Title 10 of the City Code;**
  - ii. **Adopt Resolution 2018-xx Approving a Preliminary and Final Plat named “Smaart Expansion Baxter”;**
  - iii. **Adopt Resolution 2018-063 Approving Conditional Use Permits to allow a rental use, multiple frontage signage, and joint access; and**
  - iv. **Approve architectural review to include architectural metal panels over 50% on a façade.**

Community Development Director Doty explained the requested is for the redevelopment of the Brainerd General Rental property located at 15248 State Highway 371. The applicant has requested an amendment to the C-2 Convenience Commercial zoning district to allow equipment rental as a conditional use and to consolidate two lots into one lot for Brainerd General Rental. The applicant is also requesting a conditional use permit to allow equipment rental and sales, multiple frontage signage and joint cut driveway access. The application has also been submitted to MnDOT and is subject to their comments. The city supports a fire hydrant distance of approximately 391 feet from the building, where 300 is the maximum distance stated in the fire code for the proposed building. If there is a documented parking problem on the site, the applicant shall use equipment parking spaces as customer parking spaces as needed to resolve and comply with the city’s minimum parking standard. The multiple frontage signs shall be 200 feet apart and on separate street frontages as required by the sign ordinance. The planning and zoning commission, utilities commission, and architectural review commission have recommended approval. The planning and zoning commission removed two conditions recommended by staff. Those two conditions are to allow lifts to be left in an upright condition and to allow class five surface as proposed by the applicant. Staff points out these items for discussion because staff has identified concerns with the class 5 and not being compliant with the city’s MS4 permit and a precedent setting situation.

Tim Ramerth, with WSN and representing the applicant, understands the precedent setting concern with the use of the class five surface and assured the council he can make the project compliant with MS4 standards.

Public Works Director Walter explained the city’s standards have not been established to address run off from aggregate into storm water ponds. The applicant probably can become compliant with some added treatment. There will be other C2 business owners will want this same

surface. Moving fire hydrant 91 feet to the south, across Dellwood Drive, is a state fire code requirement. The city would support a variance for the placement of the fire hydrant to not disturb the roadway surface of Dellwood Drive. Not having to move the fire hydrant would allow that funding to be used for additional paving.

Public Work Director Walter submitted a memo prior to the start of the council meeting, which was developed after the planning and zoning commission meeting, to recommending no change to the city ordinance and class five should not be used. Public Works Director Walter explained the fire hydrant spacing statute was changed in 2015 and Dellwood Drive was designed in 2014. Had the change been known, the fire hydrant could have been moved at that time.

Steve Mau, the applicant, explained if the fire hydrant issue went away, he would be able to pave the entire area. The bituminous requirement and the moving of the fire hydrant has added about \$50,000 to the project cost.

City Administrator Chapulis explained the city can weigh in on the fire hydrant issue and the state would decide if a variance can be issued. The council consensus was to support changing the fire hydrant location in exchange for the additional paving.

The development agreement for the project is not required if the fire hydrant does not need to be moved. The applicant has discussed the fire hydrant issue with the Brainerd fire chief. If the local regulator supports the variance to the fire hydrant spacing, the state looks more favorable to the request.

**MOTION** by Council Member Holman, seconded by Council Member Barrows that the city hold on the paving and we support the applicant in applying for a fire hydrant variance, and if the variance is denied, the city will consider cost sharing or cover the cost to move the fire hydrant to promote economic development, Council Member Cross explained the city is opening up the possibility that the city will move fire hydrants in the future should they not meet placement standards and the applicant could have requested a fire line at the time Dellwood Drive was improved. Voting yes were Council Members Holman, Barrows, Nystrom and Mayor Olson. Voting not was Council Member Cross. Motion carried.

**MOTION** by Council Member Holman, seconded by Council Member Nystrom to Adopt Ordinance No. 2018-013, Summary Ordinance No. 2018-014 and Findings of Fact Resolution 2018-061 approving an ordinance amending the text of Title 10 of the City Code. Motion carried unanimously.

**MOTION** by Council Member Barrows, seconded by Council Member Nystrom to Adopt Resolution 2018-062 Approving a Preliminary and Final Plat named “Smaart Expansion Baxter”. Motion carried unanimously.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to Adopt Resolution 2018-063 Approving Conditional Use Permits to allow a rental use, multiple frontage signage, and joint access. Motion carried unanimously.

**MOTION** by Council Member Barrows, seconded by Council Member Nystrom to approve architectural review to include architectural metal panels over 50% on a façade. Motion carried unanimously.

City Administrator Chapulis will work with the applicant on submitting a variance request for the placement of the fire hydrant.

City Administrator Chapulis and City Attorney Person asked the council for clarification on the first motion made by Council Member Holman and the motion made by Council Member Barrows regarding Resolution 2018-063 as it appears both motions were for the same agenda item. The council consensus was the motion made by Council Member Barrows regarding Resolution 2018-063 was included in the previous motion made by Council Member Holman and it should be considered void as action has been taken.

- 6. Approve the following as it relates to the Excelsior Road/Edgewood Drive roadway improvement project**
  - i. Adopt Resolution 2018-064 Approving a Conditional Use Permit to allow off-site parking and Variances to the front yard structure setback and to the parking setback for property located at 14133 Edgewood Drive;**
  - ii. Adopt Resolution 2018-065 Approving a Conditional Use Permit to allow joint access for properties located at 14039 Edgewood Drive, 14092 Edgewood Drive, and 7472 Excelsior Road;**
  - iii. Adopt Resolution 2018-066 Approving Variances to the drive aisle and parking setback for property located at 14039 Edgewood Drive;**
  - iv. Adopt Resolution 2018-067 Approving Variances to the front yard structure setback and to the drive aisle setback for property located at 7348 Excelsior Road.**

Community Development Director Doty explained these items are all related to the Excelsior Road Improvement Project.

**MOTION** by Council Member Cross, seconded by Council Member Nystrom Adopt Resolution 2018-064 Approving a Conditional Use Permit to allow off-site parking and Variances to the front yard structure setback and to the parking setback for property located at 14133 Edgewood Drive; Adopt Resolution 2018-065 Approving a Conditional

Use Permit to allow joint access for properties located at 14039 Edgewood Drive, 14092 Edgewood Drive, and 7472 Excelsior Road; Adopt Resolution 2018-066 Approving Variances to the drive aisle and parking setback for property located at 14039 Edgewood Drive; and Adopt Resolution 2018-067 Approving Variances to the front yard structure setback and to the drive aisle setback for property located at 7348 Excelsior Road. Motion carried unanimously.

**7. Vacate Right of Way located at the old intersection of Edgewood Drive and Excelsior Road between 14039 Edgewood Drive and 7472 Excelsior Road**

**i. PUBLIC HEARING at 7:00 p.m. or shortly thereafter.**

**ii. Adopt Resolution No. 2018-068 vacating right-of-way.**

Mayor Olson opened the public hearing at 8:35 p.m.

Community Development Director Doty explained the request is to vacate a portion of Edgewood Drive that is located between Cub Foods and the strip mall. The land description has been reviewed by a licensed surveyor.

Mayor Olson closed the public hearing at 8:36 p.m. as no public comments were received.

**MOTION** by Council Member Cross, seconded Motion Cross Barrows, to adopt Resolution No. 2018-068 vacating right-of-way, Council Member Holman asked for clarification that the legal description is comprehensive, and no small segments of land have been excluded, Attorney Person explained the work was completed by a survey team and should be all inclusive. Motion carried unanimously.

**8. Authorize staff to commence the completion of a residential zoning district study involving the RS, Special Residential Cluster and F, Commercial Forestry zoning districts.**

Community Development Director Doty explained the City of Baxter is requesting authorization to commence the completion of a residential zoning district study. The City of Baxter Comprehensive Plan (updated in 2015) provides guidance on residential growth for the City of Baxter and indicates that Official Controls are needed regarding residential zoning districts to be consistent with the City's growth plan that is identified in the Comprehensive Plan.

Staff recommends authorization of staff to commence the completion of a residential zoning district study involving the RS, Special Residential Cluster and F, Commercial Forestry zoning districts.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to Authorize staff to commence the completion of a residential zoning district study involving the RS, Special Residential Cluster and F, Commercial Forestry zoning districts. Motion carried unanimously.

**9. PUBLIC HEARING at 7:00 p.m. or shortly thereafter regarding an interim ordinance to prevent residential subdivisions to request lots less than 20 acres or less in size in the RS, Special Residential Cluster and F, Commercial Forestry zoning districts.**

Mayor Olson opened the public hearing at 8:38 p.m. and hearing no public comments, Mayor Olson closed the public hearing at 8:38:30 p.m.

**10. Adopt Ordinance 2018-015 Approving an interim ordinance temporarily prohibiting the issuance of subdivision approval of Lots 15 acres or less for properties in the RS, Special Residential Cluster and F, Commercial Forestry zoning districts.**

Community Development Director Doty explained the interim ordinance would be lifted in one year or the conclusion of the zoning amendments or whatever occurred first. There would be opportunity for civic engagement throughout the process of the study.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to Adopt Ordinance 2018-015 Approving an interim ordinance temporarily prohibiting the issuance of subdivision approval of Lots 15 acres or less for properties in the RS, Special Residential Cluster and F, Commercial Forestry zoning districts. Motion carried unanimously.

**B. Approve the Development Agreement for SMAART Expansion Baxter Project City admin to approve if needed.**

**MOTION** by Council Member Cross, seconded by Council Member Nystrom to Approve the Development Agreement for SMAART Expansion Baxter Project, should improvements need to be completed within the right-of-way. Motion carried unanimously.

**10. Council Comments**

**Steve Barrows:** Council Member Barrows attended Night to Unite and thanked the police department and staff for their hard work in putting the event together. It appeared attendance was up.

**Todd Holman:** Council Member Holman attended Night to Unite and explained it was a great night and appreciate that staff put the event together.

**Mark Cross:** Council Member Cross explained an attendee explained Night to Unite gets better every year and reminded motorists to watch out for motorcycles.

**Darrel Olson:** Mayor Olson thanked city staff, the Lions, vendors, and booths for this work in putting the event together. Home Depot distributed 300 building kits and the Lions served 600 root beer floats.

**11. City Administrator's Report**



City Administrator Chapulis asked the council to mark their calendar for the LCCMR recognition event to be held on October 20, 2018 at 10 a.m., additional information will forth coming. Council Member Nystrom stated she is unable to attend the October 20 event. City employees have expressed interest in purchasing city logo apparel and if the council interested they should contact staff. City staff will be purchasing the apparel with their own funds.

**12. City Attorney's Report**

**A. Closed Session, Minnesota Statute 13D.03, subd. 1 (b), Labor Negotiations**

City Attorney Person asked the council to enter into a closed session under Minnesota Statute 13D.03, subd. 1 (b).

**MOTION** by Council Member Barrows, seconded by Council Member Nystrom to enter into a closed session at 8:49 p.m. Motion carried unanimously.

The Council returned to an open session at 8:55 p.m.

Mayor Olson explained the Council received an update on union negotiations and no action would be taken.

**13. Adjourn**

**MOTION** by Council Member Cross seconded by Council Member Barrows to adjourn at 8:57 p.m. to the Special Council Budget Work Session on Tuesday, August 28 at 6:00 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