

BAXTER CITY COUNCIL MINUTES
September 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, and Todd Holman were present. Council Member Mark Cross was absent.

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. Additions or Changes to the Agenda

City Administrator Chapulis asked to remove the closed session item from the agenda for the discussion of purchase of property.

5. Public Comments

None.

6. Consent Agenda

- A. Approve Special City Council Budget Work Session Minutes from August 28, 2018
- B. Approve City Council Minutes from September 4, 2018
- C. Approve City Council Work Session Minutes from September 4, 2018
- D. Approve the Payment of Bills and Finance Report
- E. Approve Agreement between Minnesota State College and Universities, Central Lakes College, and the City of Baxter for Student Supervised Pre-Internship Training
- F. Approve Agreement for Election Equipment Utilization and Storage
- G. Approve Temporary Liquor License for the Northland Arboretum Event on September 29, 2018 at the Northland Arboretum
- H. Adopt Resolution 2018-079 Declaring Cost to be Assessed and Ordering the Preparation of Proposed Assessment for the 2018 Excelsior Road and Edgewood Drive Commercial Improvement Project, Municipal Project Number 4123
- I. Adopt Resolution 2018-080 For Hearing on Proposed Assessment for the 2018 Excelsior Road and Edgewood Drive Commercial Improvement Project, Municipal Project Number 4123
- J. Adopt Resolution 2018-081 Declaring Cost to be Assessed and Ordering the Preparation of Proposed Assessment for the 2018 Cypress Drive Improvement Project, Municipal Project Number 4027
- K. Adopt Resolution 2018-082 For Hearing on Proposed Assessment for the 2018 Cypress Drive Improvement Project, Municipal Project Number 4027
- L. Adopt Resolution No. 2018-071 Setting the Preliminary 2019 Property Tax Levy at \$6,402,800

- M. Adopt Resolution No. 2018-072 Approving the Preliminary 2019 Governmental Funds Budget
- N. Set the Public Information Meeting to Review the 2019 Budget and Levy with Public Testimony for Monday, December 3, 2018 at 6:00 p.m.
- O. Approve the Crow Wing County Classification to Non-Conservation and Future Sale Thereof for the Tax Forfeited Parcel Described as Part of Gov. Lot 5 Section 27
- P. Renew the Sourcewell Health Partners Health Insurance Contract for 2019 and Authorize Execution of the Contracts
- Q. Approve the Appointment of Peter Lindman as a Police Officer at the Entry Level Wage Pending Completion of a Background
- R. Accept Planning Commission Minutes from September 11, 2018
- S. Accept Utilities Commission Minutes from September 5, 2018
 - 1. Advise City Council that the City should clean up the right-of-way issue on Homestead Drive with regards to a future buildable site on this parcel.
 - 2. Approve the KLM Engineering, Inc, Change Order No. 1 in the increased amount of \$23,256.00 for the 2018 North Water Tower Rehabilitation Improvements Project.
 - 3. Approve the KLM Engineering, Inc, Partial Pay Estimate No. 1 in the amount of \$636,350.00 for the 2018 North Water Tower Rehabilitation Improvements Project.
 - 4. Approve the Landwehr Construction Inc. Change Order No. 1 in the increased amount of \$61,736.00 for the 2018 Cypress Drive Improvements Project.
 - 5. Approve the Landwehr Construction Inc. Partial Pay Estimate No. 2 in the amount of \$1,225,706.69 for the 2018 Cypress Drive Improvements Project.
 - 6. Approve the Pratt's Affordable Excavating, Inc. Change Order No. 4 in the increased amount of \$18,134.76 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project.
 - 7. Approve Pratt's Affordable Excavating, Inc. Partial Pay Estimate No. 6 in the amount of \$402,493.79 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project.
 - 8. Approve the Anderson Brothers Construction Change Order No. 2 in the increased amount of \$27,154.55 for the 2018 Mill & Overlay and Full Depth Reclamation Improvements Project.
 - 9. Approve Anderson Brothers Construction Partial Pay Estimate No. 2 in the amount of \$773,850.27 for the 2018 Mill & Overlay and Full Depth Reclamation Improvements Project.
 - 10. Approve the Tri-City Paving, Inc. Partial Pay Estimate No. 5 in the amount of \$174,164.66 for the 2017 Mill & Overlay and Full Depth Reclamation Improvements Project and 2017 Excelsior Road Residential Full Depth Reclamation Improvements Project.
 - 11. Award the bid to Holden Electric for the 2018 Water Treatment Plant 750 kW Emergency Generator in the total amount of \$312,600.00.
 - 12. Amend the 2018 SAC budget from \$300,000.00 to \$327,600.00 for 2018 Water Treatment Plant 750 kW Emergency Generator

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

7. Pulled Agenda Items

Finance Director Vacinek asked to pull Consent Agenda item 6S12. Amend the 2018 SAC budget from \$300,000.00 to \$327,600.00 for 2018 Water Treatment Plant 750 kW Emergency Generator to correct the funding source.

MOTION by Council Member Holman, seconded by Council Member Barrows to amend Consent Agenda item 6S12 to correct the funding source from the SAC budget to the WAC budget and to amend the WAC budget from \$300,000 to \$327,600 for the 2018 water treatment plant 750kW emergency generator. Motion carried unanimously.

8. Other Business

A. Planning and Zoning Actions

1. Adopt Resolution 2018-073 approving Conditional Use Permits to allow cumulative accessory structure square footage to exceed 1,800 square feet and to allow grading within a shoreland overlay district and a Variance to allow an accessory structure to be within 50 feet of a side lot line for property located at 13209 Homestead Drive N.

Community Development Director Doty explained the applicant has requested approval of conditional use permits and a variance to allow cumulative accessory structure square footage to exceed 1,800 square feet and to allow grading within a shoreland overlay district and a variance to allow an accessory structure to be within 50 feet of a side lot line for their property located at 13209 Homestead Drive North. The proposed garage would be located further to the south to preserve the ability to construct a home on the property at a future date. The Utilities Commission recommended approval subject to the 100-year storm water design due to the proximity to the lake. The Planning and Zoning Commission has recommended approval subject to the conditions contained in the resolution.

MOTION by Council Member Barrows, seconded by Council Member Nystrom to adopt Resolution 2018-073 approving Conditional Use Permits to allow cumulative accessory structure square footage to exceed 1,800 square feet and to allow grading within a shoreland overlay district and a Variance to allow an accessory structure to be within 50 feet of a side lot line for property located at 13209 Homestead Drive N., subject to the facts and findings contained in the resolution. Motion carried unanimously.

2. Adopt Resolution 2018-074 approving a Conditional Use Permit to move a single-family home onto a single-family lot located on Lynwood Drive.

Community Development Director Doty explained this request is by Lakes Area Habitat for Humanity, in a partnership with the City due to the Cypress Drive Improvement Project, for approval of a conditional use permit to allow an existing single-family home to be moved to property located on Lynwood Drive. The home would be moved to Track A and a home would be constructed by Lakes Area Habitat for Humanity on Track B at a future date. The Planning and Zoning Commission recommends approval.

MOTION by Council Member Barrows, seconded by Council Member Barrows to adopt Resolution 2018-074 approving a Conditional Use Permit to move a single-family home onto a single-family lot located on Lynwood Drive, subject to the facts and findings contained in the resolution. Motion carried unanimously.

3. Adopt Ordinance 2018-016, Summary Ordinance 2018-017 Findings of Fact Resolution 2018-075 to allow Christmas tree sales as an interim use is the C-2, Regional Commercial district and Resolution 2018-076 to allow for outdoor sales of Christmas trees and related items for property located at 14114 Dellwood Drive.

Community Development Director Doty explained the applicant has requested approval of an interim use permit to allow seasonal outdoor sales of Christmas trees and related items for Mills Fleet Farm located at 14114 Dellwood Drive. The amendment would apply city wide. The interim use permit would be valid through the 2022 season. Specifically, the outdoor sale is allowed for the next five seasons between November 1st and January 1st. At the termination of the interim use permit, the applicant would have to reapply for a new interim use permit to conduct seasonal outdoor sales of Christmas trees and related items. The Planning and Zoning Commission has recommended approval.

MOTION by Council Member Barrows, seconded by Council Member Holman to adopt Ordinance 2018-016, Summary Ordinance 2018-017 Findings of Fact Resolution 2018-075 to allow Christmas tree sales as an interim use is the C-2, Regional Commercial district and Resolution 2018-076 to allow for outdoor sales of Christmas trees and related items for property located at 14114 Dellwood Drive, subject to the facts and findings contained in the resolution. Motion carried unanimously.

4. Adopt Resolution 2018-077 approving Variance to the front yard setback requirement on Dellwood Drive for an existing accessory structure located at 15248 State Highway 371.

Community Development Director Doty explained the applicant has requested approval of a variance for a 28-foot front setback for an existing accessory building where 35 feet is required by the zoning ordinance for Brainerd General Rental located at 15248 State Highway 371. Due to the City requesting right of way for the Dellwood Drive project, the existing building no longer meets setback requirements.

MOTION by Council Member Barrows, seconded by Council Member Holman to Adopt Resolution 2018-077 approving Variance to the front yard setback requirement on Dellwood Drive for an existing accessory structure located at 15248 State Highway 371. Motion carried unanimously.

5. Adopt Resolution 2018-078 approving Variances and Conditional Use Permits to allow a patio, patio steps, deck steps and retaining wall within

the shoreland setback to White Sand Lake for property located at 14312 Memorywood Drive.

Community Development Director Doty explained the applicant has requested approval of a conditional use permit amendment allowing the expansion of a legally nonconforming structure on a riparian lot and for grading within the shoreland district and variances to the lake setback for a patio, deck retaining wall, and related steps for property located at 14312 Memorywood Drive. The Planning and Zoning Commission recommended approval.

MOTION by Council Member Barrows, seconded by Council Member Holman to Adopt Resolution 2018-078 approving Variances and Conditional Use Permits to allow a patio, patio steps, deck steps and retaining wall within the shoreland setback to White Sand Lake for property located at 14312 Memorywood Drive, subject to the facts and findings of the resolution. Motion carried unanimously.

B. Developer's Agreement Amendment for Brainerd General Rental

City Administrator Chapulis explained at the August 22nd, 2018, Council meeting, the council considered and approved several items for the Brainerd General Rental project located at 15248 State Highway 371. One of the items approved that evening was a Conditional Use Permit (CUP). The motion for the approval of the CUP contained the following language: Support for the business to pursue a fire code variance from the Minnesota Department of Public Safety (DPS) to increase the maximum distance from a fire hydrant to a non-sprinkled commercial building from 300 feet to 391, which is the distance from the furthest point of the proposed building to the location of the nearest fire hydrant. If the variance is denied, the City will consider cost sharing the cost of moving the fire hydrant for the applicant's compliance with the Fire Code.

Staff has researched the Fire Code variance process, conversed with trusted colleagues in the trade and DPS staff. We have concluded that the chances of a variance being granted by the State Fire Marshall is very slim to non-existent and that the process will take 30-45 days to obtain the Marshall's answer. Staff has shared its findings with General Rental. Based on our findings regarding the variance and the timeline for the proposed project, staff and the company do not believe it is in the best interest of either party to pursue the variance.

Acknowledging that the approval of the variance is unlikely, staff worked with the company to identify the options available to comply with the Minnesota State Fire Code. While compliance can be achieved in many ways, the decisions made for the proposed development present two options for such compliance.

Staff is recommending Option 1. Option 1 relocates the existing fire hydrant from the east side of Dellwood Drive to the west side. The 90-foot relocation requires the excavation of Dellwood Drive, which is estimated to cost \$37,198. This is greater than the \$25,000 cost referenced by General Rental representatives at the August 22nd meeting.

While a development agreement for the proposed development was approved on August 22nd, it will need to be amended to properly reflect “cost sharing”. Staff has prepared a revised development agreement that contains language that describes the reason(s) for “cost sharing”, which were discussed at the Aug 22nd meeting, and a place to include the actual value.

Staff is seeking direction on the pursuit of the variance and to determine what cost sharing should be included in the development agreement. After the council determines this, staff is asking council to approve the amended development agreement.

A third option, to install the water line in the right-of-way on the west side of Dellwood Drive, was discussed.

How the City would provide cost sharing and the intent of the August 22 motion to provide cost sharing was deliberated.

City Administrator Chapulis explained the cost sharing funds would most likely come from the water fund and future water fund projects would have to be reviewed.

MOTION by Council Member Barrows, seconded by Council Member Nystrom to set the maximum dollar limit the City is willing to pay to move the fire hydrant at \$37,198 and if the cost is less then the city will accept the lower cost and if the cost is more the developer must cover the extra cost. Motion carried unanimously.

9. Council Comments

None.

10. City Administrator’s Report

City Administrator Chapulis reminded the council of the informational meetings to be held tomorrow for the Memorywood improvement project and Thursday for the North Forestview improvement project.

11. City Attorney’s Report

- A. ~~Closed Session Under Minnesota Statute 13D.05, subd. 3 (c), Purchase of Property~~**
- B. Closed Session Under Minnesota Statute 13D.05, subd. 3 (b), Attorney-Client Privilege**
- C. 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.05, subd. 3 (b) and 13D.03, subd. 1 (b).

MOTION by Council Member Holman, seconded by Council Member Barrows to enter into a closed session at 8:04 p.m. Motion carried unanimously.

The council returned to an open session at 9:15p.m. and announced no action would be taken on the closed session items.

12. Adjourn

MOTION by Council Member Barrows seconded by Council Member Nystrom to adjourn at 9:15p.m. Motion carried unanimously.

Approved by:

Respectfully submitted,

Darrel Olson
Mayor

Kelly Steele
Assistant City Administrator