

**BAXTER CITY COUNCIL MINUTES**  
**October 16, 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, 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 explained there are none.

**5. Public Comments**

None.

**6. Consent Agenda**

- A. Approve City Council Minutes from October 2, 2018
- B. Approve City Council Special Minutes from October 10, 2018
- C. Approve City Council Special Minutes from October 11, 2018
- D. Approve the Payment of Bills and Finance Report
- E. Accept a \$500 Donation from the Kiwanis Club for the 2018 Children's Triathlon
- F. Approve Transfer of \$1,100 From Alcohol Fund for Installation of Squad Routers
- G. Approve 2019 Delayed Payment of Tax on Special Assessments for Applicants with Eligible Hardships
- H. Adopt Resolution 2018-083, Providing for the Competitive Negotiated Sale of the \$6,595,000 General Obligation Improvement and Tax Increment Bonds, Series 2018
- I. Adopt Resolution 2018-084 Adopting Assessment for the 2018 Excelsior Road and Edgewood Drive Commercial Improvement Project, Municipal Project Number 4123
- J. Adopt Resolution 2018-085 Adopting Assessment for the 2018 Cypress Drive Improvement Project, Municipal Project Number 4027
- K. Accept Planning Commission Minutes from October 9, 2018
- L. Accept Long Range Planning Commission Minutes from September 24, 2018
- M. Authorization of Compensation for Property Impacts to 7180 Excelsior Road (Degen) as part of the 2017 Excelsior Road Residential Improvement Project
- N. Accept Utilities Commission Minutes from October 3, 2018
  1. Approve the BNSF License for Electric Supply Line Across or Along Railway Property in the amount of \$5,737.25 for the 2018 Cypress Drive Improvements Project.
  2. Approve the Landwehr Construction Inc. Partial Pay Estimate No. 3 in the amount of \$994,508.82 for the 2018 Cypress Drive Improvements Project

3. Approve the Pratt's Affordable Excavating, Inc. Change Order No. 5 in the increased amount of \$50,831.23 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project.
  4. Approve Pratt's Affordable Excavating, Inc. Partial Pay Estimate No. 7 in the amount of \$257,222.78 for the 2018 Excelsior Road and Edgewood Drive Commercial Improvements Project.
  5. Approve the Anderson Brothers Construction Change Order No. 3 request for a three-week extension for the 2018 Mill & Overlay and Full Depth Reclamation Improvements Project.
  6. Approve Anderson Brothers Construction Partial Pay Estimate No. 3 in the amount of \$257,222.78 for the 2018 Mill & Overlay and Full Depth Reclamation Improvements Project.
- O. Accept donation of 120 acres of land known as Island Lake from the State of Minnesota Department of Military Affairs to the City of Baxter.
- P. Accept Estimated Cost of \$69,832.13 for Landscaping the Excelsior Road at Edgewood Drive Roundabout

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

## 7. Pulled Agenda Items

## 8. Other Business

### A. Planning and Zoning Actions

1. **Adopt Ordinance No. 2018-018 amending PUD zoning, Summary Ordinance 2018-019, and Resolution 2018-086 approving a PUD Final Plan amendment to add a drive-through use and to modify the building size for the three-tenant retail building on the vacant northeast lot in the PUD for properties located at 14275, 14203 and 14199 Edgewood Drive.**

Community Development Director Josh Doty explained the applicant is requesting an amendment of the PUD zoning for property located at 14275, 14203, and 14199 Edgewood Drive. The property is located in front of the former Gander Mountain building. The approval is to make the building 200-300 square feet larger than what was previously approved by the council. The building would still be constructed for three tenants but is proposed to be modified for a drive through.

The findings from the traffic study analysis have been added to the resolution.

The Utility Commission and Planning Commission have recommended approval. The architect review can be reviewed and approved administratively.

Community Development Director Doty explained the parking will accommodate two restaurants.

Tim Ramerth, WSN, explained the cross-access parking with the southernly building could accommodate any additional parking needs for the northerly building.

**MOTION** by Council Member Cross, seconded by Council Member Nystrom, to Adopt Ordinance No. 2018-018 amending PUD zoning, Summary Ordinance 2018-019, and Resolution 2018-086 approving a PUD Final Plan amendment to add a drive-through use and to modify the building size for the three-tenant retail building on the vacant northeast lot in the PUD for properties located at 14275, 14203 and 14199 Edgewood Drive. Motion carried unanimously.

2. **Adopt Resolution 2018-087 approving Variances and a Conditional Use Permit to allow a patio, patio steps, and a retaining wall to be within a bluff/bluff setback and within the setback to the Mississippi River for property located at 12324 Camwood Trail.**

Community Development Director Josh Doty explained the request is to allow grading within the shoreland overlay district and to allow the conversion of a deck to a patio, on a single-family home, located within a bluff setback. The state's shoreland requirements require a 30-foot setback from the bluff. The subject home is constructed in the bluff setback, as are other homes in the neighborhood. The home was constructed prior to the setback requirement, as is considered a legal non-conforming property. The applicant is proposing to address some erosion concerns with the application.

The Planning and Zoning Commission has recommended approval.

**MOTION** by Council Member Barrows, seconded by Council Member Nystrom to Adopt Resolution 2018-087 approving Variances and a Conditional Use Permit to allow a patio, patio steps, and a retaining wall to be within a bluff/bluff setback and within the setback to the Mississippi River for property located at 12324 Camwood Trail. Motion carried unanimously.

3. **Adopt Resolution 2018-088 approving a Conditional Use Permit to allow grading and filling within the shoreland overlay district to Perch Lake for property located at 13233 Homestead Drive.**

Community Development Director Josh Doty explained the request is for grading for a property located on Perch Lake. The applicant is proposing to re-do the yard and plant trees and reestablish grass.

The Planning and Zoning Commission has recommended approval.

**MOTION** by Council Member Barrows, seconded by Council Member Cross to Adopt Resolution 2018-088 approving a Conditional Use Permit to allow grading and filling within the shoreland overlay district to Perch Lake for property located at 13233 Homestead Drive, subject to the facts and findings. Motion carried unanimously.

4. **Approve the following as it relates properties located at 14370 and 14398 Dellwood Drive**

- i. **Adopt Resolution 2018-089 approving Preliminary and Final Plat of Triangle Addition to Baxter, Resolution 2018-090 and Resolution 2018-091 approving Conditional Use Permits for joint access and shared**

**stormwater ponding, and Variances for drive isle, parking, and structure setbacks; and**

**ii. Approve Limited Use Agreements for landscaping and drive aisles in the right-of-way of Dellwood Drive.**

Community Development Director Josh Doty explained the request is for several different applications. The first three items are recommendations from the Planning and Zoning Commission. The fourth item, is in the next section on the council agenda, containing the limited use agreements, but is related to the first three.

The preliminary plat and final plat are to rearrange lot lines. As part of reorganizing there are some conditional use permits and variances that are being requested for existing legal non-conformities and asking for clear title moving forward. The limited use agreements are to improve encroachments in the existing right-of-way. The application is to separate the lots of SA and Big O Lots and to create an outlot. There is no intended development for the third lot at this time, so it is being proposed as an outlot. The applicant is agreeable to removing the gravel surface and replacing it with grass. The preliminary and final plat creates three lots that would meet the minimum requirements of the zoning ordinance. The joint access requires a conditional use permit. Setback variances are being requested for existing conditions.

The Planning and Zoning Commission recommended approval of the plat and limited use agreements.

The applicant agreed to orientate the parking stalls the same direction. There is dedication of right-of-way on Dellwood Drive and Golf Course Drive.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to Adopt Resolution 2018-089 approving Preliminary and Final Plat of Triangle Addition to Baxter, Resolution 2018-090 and Resolution 2018-091 approving Conditional Use Permits for joint access and shared stormwater ponding, and Variances for drive isle, parking, and structure setbacks; and Approve Limited Use Agreements for landscaping and drive aisles in the right-of-way of Dellwood Drive, subject to the findings and facts. Motion carries with Mayor Olson and Council Members Nystrom, Barrows, and Holman voting yes and Council Member Cross abstaining.

**5. Adopt Resolution 2018-092 approving Preliminary and Final Plat of Navillus Business Center, Ordinance No. 2018-020, Summary Ordinance No. 2018-021, Resolution 2018-093 approving Findings of Fact, Resolution 2018-094 approving Conditional Use Permits and Variance to allow an automobile towing use with outdoor tow yard, joint access, fence height over six feet, barb wire fencing and Variance for pavement setback for property located southwest of College Road and Cypress Drive**

Community Development Director Josh Doty explained under one application the applicant is proposing to readjust lot lines within an existing site area and the other

applications are specific to one parcel. The applicant is combining five lots into three lots.

The tow yard would be enclosed with a six-foot-high fence and three strands of barb wire. The original request was for razor wire, but staff did not support the request and the applicant changed to barb wire. The fence and building would be constructed with pole metal.

The variance is for a zero set back when ten feet is required for pavement drive isles.

No additional right of way is needed with the applications.

The towing use is currently not allowed in the industrial zoning district. Approval of the request would allow the use with a conditional use permit.

The Utilities Commission has reviewed the applications and added several conditions to the resolution. The architectural review can be approved administratively. The Planning and Zoning Commission has recommended approval.

The application does include improvements to the exterior of the building, but the applicant did submit costs estimates. If the applicant can approve the addition has a valuation of a certain percentage then the applicant is allowed to match the existing exterior materials.

The code change to allow tow yards would be a city-wide change, not a site-specific change.

There are potentially three property owners for maintaining the storm water pond. If the property owners do not maintain the pond, the city includes the storm water access in the easement.

Tim Ramerth, with WSN, explained there is a common shared system between the two lots and it is a wet pond that is lined.

Public Works Director Walter explained there is already a condition to have a storm water maintenance agreement for all the properties that contribute to the storm water system.

The city asked for upgrading fencing, but the applicant declined. The landscaping requirements are minimum due to the size of the building addition. The proposed fence is considered a screened fence.

The subject property is located near residential areas, including the collector road of College Drive, where the use would be very visible.

The code amendment is a city-wide amendment, but only for property zoned industrial.

City Attorney Person advised the council should find a location for every legal use in the city.

With an existing alteration of a building, the city may allow the façade side to match the existing building if the cost to bring the front façade into compliance with the zoning code exceeds 1/3 of the cost of the building permit valuation.

Tim Ramerth, WSN, explained the proposed use is appropriate for an industrial zoning district.

Eric Sullivan, Navillus Land Company, explained the business owner is concerned with security.

Hy-Tech submitted the 1/3 cost information with the application.

**MOTION** by Council Member Cross, seconded by Council Member Holman to table the application until the council can see the information submitted to document the 1/3 of the building cost and to have it reviewed by a third party. Motion carried with Mayor Olson and Council Members Holman and Cross voting yes. Council Members Nystrom and Barrows voting no.

**6. Vacate drainage and utility easements for property located southwest of College Road and Cypress Drive:**

- i. PUBLIC HEARING at 7:00 p.m. or shortly thereafter.**
- ii. Adopt Resolution No. 2018-095 vacating drainage and utility easements.**  
City Attorney Person explained the council should motion to table.

**MOTION** by Council Member Cross, seconded by Council Member Holman to table discussion. Motion carried unanimously.

**9. Council Comments**

**Quinn Nystrom:** Council Member Nystrom explained she will be absent from the November 7<sup>th</sup> meeting. Council Member Nystrom explained Chris Mathison has suspended his campaign for Brainerd City Council due to being bullied and threaten because of mental illness and social support. Our community should support people with mental illness.

**Todd Holman:** Council Member Holman explained the council set aside October 20 as a partner recognition event at 10 a.m. at Mississippi River Overlook Park. People will be gathering at 9:30 a.m. at the public works facility.

**10. City Administrator's Report**

City Administrator Chapulis reminded the council the next council meeting will be on November 7 due to the November 6 General Election. LMC released the draft policies for the next legislative session. The council can submit comments to City Administrator Chapulis and he will send them together as a whole. The Utilities Commission moved to Thursday, November 8.

**11. City Attorney's Report**

- A. Closed Session Under Minnesota Statute 13D.05, subd. 3 (c), Purchase of Property, Property ID 010054400BBA009**
- B. Closed Session Under Minnesota Statute 13D.05, subd. 3 (b), Attorney-Client Privilege**
- C. Closed Session Under Minnesota Statute 13D.03, Labor Negotiations**

City Attorney Person asked the council to enter into a closed session under Minnesota Statute 13D.05, subd. 3 (c), Purchase of Property; 13D.05, subd. 3 (b), Attorney-Client Privilege; and 13D.03, Labor Negotiations.

**MOTION** by Council Member Cross, seconded by Council Member Barrows to enter into a closed session at 8:30 p.m. Motion carried unanimously.

Mayor Olson turned the meeting over to Vice Mayor Todd Holman at 8:30 p.m.

The council returned to an open session at 9:14 p.m.

City Administrator explained the council provided direction to continue negotiations on the discussion of the purchase of property.

**MOTION** by Council Member Cross, seconded by Council Member Barrows, to approve the 2018 Labor Agreement and MOU with LELS #414, subject to a favorable review by the city's labor attorney and approval of the MOU by LELS #312. Motion carried unanimously.

**MOTION** by Council Member Cross, seconded by Council Member Barrows to correct the amount of the change order in Consent Agenda item 6N4 for Pratt to the amount of \$257,505,65. Motion carried unanimously.

**12. Adjourn**

**MOTION** by Council Member Barrows seconded by Council Member Nystrom to adjourn at 9:16 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