

**BAXTER CITY COUNCIL MINUTES**  
**October 20, 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 Steve Barrows and Todd Holman

COUNCIL MEMBERS ABSENT: Council Members Quinn Nystrom and Mark Cross

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

**CONSENT AGENDA**

- A. Approve City Council Minutes from October 6, 2015
- B. Approve City Council Work Session Minutes from October 6, 2015
- C. Approve Special City Council Minutes from October 6, 2015
- D. Approve the Payment of Bills and Finance Report
- E. Accept Utilities Commission Minutes of October 7, 2015
  - 1. Acknowledge the receipt of the Martin's Addition Outlot A Concept Layout in order to meet the adequate facilities ordinance 9-5-1 deadline of December 1, 2015
  - 2. Approve the project quantities and construction costs for the 2015 City of Baxter Chip Seal Project in the amount of \$185,534.48
  - 3. Approve the completion date extension request to November 30, 2015 for debris pile cleanup only from R. L. Larson Excavating for the 2015 Isle Drive Extension Improvements Project
  - 4. Approve the R. L. Larson Excavating Change Order No. 1 in the increased amount of \$10,854.81 for the 2015 Isle Drive Extension Improvements Project
  - 5. Approve the R. L. Larson Excavating Partial Pay Estimate No. 5 in the amount of \$887,768.40 for the 2015 Isle Drive Extension Improvements Project
  - 6. Approve the Anderson Brothers Change Order No. 4 in the increased amount of \$8,462.73 for the 2015 Excelsior Road Improvements Project
  - 7. Approve the Anderson Brothers Partial Pay Estimate No. 4 in the amount of \$849,932.26 for the 2015 Excelsior Road Improvements Project
  - 8. Approve the Anderson Brothers Partial Pay Estimate No. 2 in the amount of \$807,329.20 for the 2015 Mill and Overlay Improvements Project
  - 9. Approve the R. L. Larson Excavating Partial Pay Estimate No. 1 in the amount of \$174,026.02 for the 2015 Dellwood Drive, Novotny Road, Inglewood Drive and Independence Road Improvements Project
- F. Accept Planning Commission Minutes from October 13, 2015

- G. Schedule a Public Hearing for the Certification of Delinquent Utility Bills, Invoices, and Abatements for Tuesday, November 17, 2015 at 7:00 p.m., or shortly thereafter.
- H. Approve Appointment of Dan Koop as Public Works Intern
- I. Accept with Gratitude a \$1,000 Donation from the Brainerd Kiwanis Club for the City's efforts supporting the Kiwanis Kids Triathlon
- J. Adopt Resolution 2015-105, Approving an Assignment of the Clearwater Estates TIF District Number Six Tax Increment Development Agreement

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

### **OTHER BUSINESS**

#### **Anderson Brothers Change Order No. 5 to change the final completion from October 2, 2015 to November 27, 2015 for the 2015 for the Excelsior Road Improvements Project**

Scott Hedlund, SEH, stated Excelsior Road opened to traffic at the end of September. Mr. Hedlund explained the contractor is requesting a time extension for the completion of the Excelsior Road Improvement Project from October 2 to November 27. The extension request is due to the delay in receiving the pedestrian flasher push button. There are still additional minor punch list items remaining to be completed on the project.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to approve the Anderson Brothers Change Order No. 5 to change the final completion from October 2, 2015 to November 27, 2015 for the 2015 Excelsior Road Improvements Project. Motion carries unanimously.

#### **R. L. Larson Excavating Change Order No. 2 to change the final completion date from October 16, 2015 to December 1, 2015 for the 2015 Isle Drive Extension Improvements Project**

Chuck Rickart, WSB, explained R.L. Larson is requesting a change from the final completion date for four reasons. The reasons include, a no motorized sign needs to be installed on the back of the stop signs, a street sign is needed at Isle Court, a delay in receiving pedestrian flasher push buttons, the contractor would like to leave the pile of black dirt near the new lift station until they are finished with other projects in the city and has offered to sell the remaining dirt to the City, and the contractor would like to burn the brush pile the first week of November. For these reasons, the contractor is asking for a December 1, 2015 completion date.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to approve the R.L. Larson Excavating Change Order No. 2 to change the final completion date from October 16, 2015 to December 1, 2015 for the 2015 Isle Drive Extension Improvements Project. Motion carries unanimously.

**R. L. Larson Excavating Change Order No. 1 to change the final completion date from October 23, 2015 to November 6, 2015 for the 2015 Dellwood Drive, Novotny Road, Inglewood Drive and Independence Road Improvements Project**

As discussed during the work session, Aric Welch, WSN, stated the contractor is requesting approval to add two weeks to the contract completion date.

**MOTION** by Council Member Barrows, seconded by Council Member Holman, to approve the R.L. Larson Excavating Change Order No. 1 to change the final completion date from October 23, 2015 to November 6, 2015 for the 2015 Dellwood Drive, Novotny Road, Inglewood Drive and Independence Road Improvements Project. Motion carries unanimously.

**Planning & Zoning Actions.**

**Adopt Resolution No. 2015-103 Approving Conditional Use permit for shared access and parking and variances to the required 10-foot side yard parking setback and to the required 35-foot front yard building setback for a new commercial building located at 14230 Dellwood Drive**

Community Development Director Doty explained the request is for a conditional use permit for joint driveway and parking at 14230 Dellwood Drive and 14242 Dellwood Drive. The request is also for a variance to allow a 4.7-foot side setback for the existing parking and drive isle on the south property line and a 24-foot front setback from Dellwood Drive for the proposed building located at 14230 Dellwood Drive. The parking does come close to the property line, but lines up with the existing building to the north. The existing freestanding signage will be removed and any new signage shall comply with the zoning code.

Community Development Director Doty explained the business proposed for the site is unknown. Due to not knowing the business, proposed approvals are based on the premise that a 6,000 square foot structure will be constructed. The variance shall be void if the building permit for new construction is for a building greater than 6,000 square feet.

The Utilities Commission has recommended approval. The Planning and Zoning Commission has recommended approval subject to the conditions contained in the resolution.

Bob Vonderharr, with InSite Real Estate, LLC, explained he is comfortable keeping the building at 6,000 square feet.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to Adopt Resolution No. 2015-103 Approving Conditional Use permit for shared access and parking and variances to the required 10-foot side yard parking setback and to the required 35-foot front yard building setback for a new commercial building located at 14230 Dellwood Drive. Motion carries unanimously.

**PUBLIC HEARING at 7:00 p.m. or thereafter Vacating a 10-foot wide right-of-way easement over and across Lot 2, Block 1 Citizen's Addition. Open the Public Hearing and Continue to a date uncertain at the request of the applicant.**

Community Development Director Doty explained the public hearing is related to the application just approved for the new commercial building at 14230 Dellwood Drive. Community Development Director Doty indicated that the developer has decided that they do not want to vacate the right-of-way easement until the developer closes on the property. Therefore, the applicant would like to delay the vacation request and will re-publish for the vacation when they are ready to move forward.

Mayor Opened the Public Hearing at 7:41 p.m. and closed the Public Hearing at 7:41:15 p.m.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to table the public hearing until a later date. Motion carries unanimously.

**Adopt Resolution No. 2015-104 Approving Conditional Use Permits to allow a drive-through motor vehicle repair business and multiple frontage signs and a Variance to allow drive through lanes facing public streets for Jiffy Lube to be located on vacant property north of 13442 Elmwood Drive**

Community Development Director Doty explained the request is for conditional use permits to allow for a drive through motor vehicle repair business and multiple frontage signs. The variance is to allow drive through lanes facing public streets. Parking will be available along the Highway 371 side of the building, with the existing trees being saved. The sign allowance would be divided between two signs due to having multiple frontages. The Utilities Commission did not identify any concerns with the request. 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 Holman to adopt Resolution No. 2015-104 Approving Conditional Use Permits to allow a drive-through motor vehicle repair business and multiple frontage signs and a Variance to allow drive through lanes facing public streets for Jiffy Lube to be located on vacant property north of 13442 Elmwood Drive. Motion carries unanimously.

**City Code Section 3-3-2, B Classifications Liquor Control**

Assistant City Administrator Steele explained the agenda item was discussed during the last council meeting and at that time, the discussion was tabled until the applicant attended a council meeting.

The applicant, apologized for missing the last council meeting, explained Minnesota Statutes allow the issuance of a liquor license for ticketed live performances. The applicant explained he currently operates a dance studio with a liquor license in Perham and has not had any issues. The applicant explained he is a dance teacher and performer. The applicant will serve snacks, but not food. Alcohol sales are required for the business to operate. The applicant explained the lease space he was previously considering did not materialize. The applicant is looking for a

space large enough to hold large weddings with 400-500 guests, live signing, live bands, and dance performances.

Staff is seeking council direction if an amendment to the liquor ordinance should be studied for future consideration. The Council discussed the need for staff to further review a proposed ordinance amendment. The Council also discussed the current ordinance, noting the requirement of food sales have worked well for the city. City Administrator Heitke explained he recently received an inquiry regarding a live music performance offering a meal for the first nightly performance and only alcohol for the second nightly performance.

### **COUNCIL COMMENTS**

**Steve Barrows:** Council Member Barrows stated Jewelwood Park is progressing nicely.

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

City Administrator Heitke explained during the last work session, staff recommended a trail component along Oakwood Drive from Whipple Beach to Cedar Scenic Road for a grant application. This project was selected because the project only involves one property owner, Crow Wing County. Due to the upcoming holidays, staff has a limited amount of time to submit a grant application. Staff does not want to submit a letter of intent only to have to withdraw it later because the project cannot be completed timely. MnDOT has explained the criteria for a grant is the demonstrated need for trails, safety issues, and usage. A trail along Oakwood Drive addresses an existing need with a large number of children walking alongside the roadway. For these reasons, staff is leaning towards submitting a letter of intent for the Oakwood Drive trail. The consensus of the Council was to rank the Oakwood Drive trail as the first priority and the CSAH 48 trail as the second priority. The Council asked staff to continue working towards the ability to submit other projects in the future.

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

**Discussion of Land Acquisition Negotiations. *Closed Session under MN Statute 13D.05, Subd. 3(c)(3) to develop an offer for the purchase of real property.***

City Attorney Person explained the council would be going into a closed session under Minnesota Statute 13D.05, subd. 3 (c) (3) to develop an offer for the purchase of real property.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to enter a closed session at 7:42 p.m. Motion carries unanimously.

Mayor Olson opened the regular meeting at 7:53 p.m.

City Attorney Person explained based on the consensus reach during the closed session; he is seeking Council approval for two agreements.

**MOTION** by Council Member Holman, seconded by Council Member Barrows to approve the agreement at 14265 Forest Drive. Motion carries unanimously.

**MOTION** by Council Member Barrows, seconded by Council Member Holman to approve the agreement at 14246 Forest Drive. Motion carries unanimously.

**ADJOURNMENT**

**MOTION** by Council Member Holman, seconded by Council Member Barrows to adjourn the meeting at 7:54 p.m. to the Budget Work Session on October 21, 2015 at 4:30 p.m. Motion carries unanimously.

Approved by:

Respectfully submitted,

---

Darrel Olson  
Mayor

---

Kelly Steele  
Assistant City Administrator/Clerk