

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

September 15, 2003

Pursuant to due call and notice, a regular meeting of the City Council of the City of Bemidji, Beltrami County, Minnesota, was held on Monday, September 15, 2003, at 7:00 p.m. in the City Hall Council Chambers, Mayor Lehmann presiding.

Upon roll call, the following Council members were declared present: Erickson, Zachman, Lehmann, Meuers, Hellquist, Johnson. Absent: Downs.

Mayor Lehmann called for any amendments to the agenda. Manager Minke requested addition of an item to consider quotes for the repair of the Ice Arena Roof, and a review of some comments regarding the Department of Revenue hearing in Brainerd regarding the local sales tax. Motion by Zachman, second by Johnson, to approve the agenda with the two additions as requested. All voted aye. Motion carried.

APPROVAL OF MINUTES

Minutes of the September 2, 2003 Regular Meeting and September 8, 2003 Special Meeting were presented. Two corrections were duly noted in the September 8th special meeting minutes. Motion by Erickson, second by Johnson, to approve the minutes as amended. All voted aye. Motion carried.

CONSENT AGENDA

Mayor Lehmann called for approval of the items on the consent agenda. Councilmember Erickson requested removal of the Resolution Establishing an Early Retirement Incentive, to be placed on the agenda for discussion. Motion by Meuers, second by Erickson, to approve the remaining items (noted below) on the consent agenda. All voted aye. Motion carried.

- 1) *Approved Developers Agreement and Application for Liquor License for Green Mill Restaurant*
- 2) *Approved **RESOLUTION NO.5079**: Renewing Gambling Permit for N. C. Snowmobile Club at Stats*
- 3) *Approved eleven (11) pages of claims in the total amount of \$505,900.56*
- 4) *Approved Road Maintenance Agreement with Bemidji Township for various Joint Boundary Line Roads*
- 5) *Approved Appointment of Nate Dorr to the Parks & Recreation Commission*
- 6) *Approved Lincoln Area Neighborhood Rehab Grant Application No. 438.007*

BEMIDJI YOUTH ADVISORY COMMISSION

San Benshoof provided a current list of commission members as well as a schedule of meetings and activities for the months of September & October, 2003. He also noted that the youth retreat is scheduled for Friday-Saturday, September 19-20 in the Finnish Village at Concordia. The committee is currently working on plans for a Teen Halloween Dance on October 31, to be held at the Elks Club.

BSU STUDENT SENATE REPORT

Jason Swanson provided an updated contact list for Student Senate representatives. Student Senate activities are back in full swing – chairpersons have been appointed for each of the committees. Some kinks are being worked out of the new “Beaver Bucks” – meal exchange program on campus.

PUBLIC AFFAIRS COMMITTEE

Meuers reported on the Public Affairs Committee meeting of September 9, 2003 – 7:30 a.m. The items discussed were Law Enforcement Costs and Northview Manor Lease. Councilmember Downs requested that the committee consider the equity of the present distribution of costs for the law enforcement center and police protection. There was some discussion about the potential of having a study done by HRDC to accurately

determine the distribution of costs. However, the committee agreed that they needed further discussion with Downs to establish his concerns before proceeding further. The discussion on Northview Manor related to the requirement for a 60-day notice when a lease is terminated. The family of one resident who recently needed to move into a nursing home requested the 60-days notice requirement be reduced in cases where the tenant is forced to move for medical reasons. The consensus was to NOT amend the requirement for 60-days notice.

PLANNING CASE #2003-22: Case #2003-22 ~ Filed by Dawne Reynolds requesting that a paper alley (alley never built) be vacated. The 20 foot by 140 foot right-of-way is situated north of her home, extending from Maurice Avenue NW to an existing alley to the east. The two property owners to the north have also signed the request to vacate the right-of-way. Planning Commission recommends the City Council approve the request to vacate the alley with the condition that a utility easement be retained. Motion by Hellquist, second by Zachman, to accept the recommendation with condition as noted. Motion carried by the following vote: Ayes: Lehmann, Hellquist, Johnson, Erickson, Zachman, Meuers. Nays: None. Absent: Downs.

PLANNING CASE #2003-23: Filed by Bob & Denise Conner requesting three variances for proposed additions on their property at 4100 Sherman Drive NE. A 150-foot setback from the Mississippi River is required for all structures and additions. The first requested variance is for an 8 foot by 13 foot (104 square feet) entryway. The second request is to build a second floor addition, approximately 24 feet by 30 feet. These first two requests are both situated less than 150 feet from the river and, therefore, variances are required. The third request is for a proposed 8 foot by 44 foot second floor deck. The deck is proposed to be situated eight feet closer to the river, so a setback of 94 feet is proposed. A 150-foot setback is required, therefore a 56 foot variance is requested. Planning Commission recommends City Council approve the first and second variances as requested to build the front entryway and second floor addition within 150 feet of the ordinary high water mark of the river. The hearing for the third variance was held in abeyance until the September 22 meeting. Motion by Erickson, second by Meuers, to approve the first and second variances as requested and to hold the third variance in abeyance until the September 22 Planning Commission meeting. Motion carried by the following vote: Ayes: Hellquist, Johnson, Meuers, Zachman, Lehmann, Erickson. Nays: None. Absent: Downs.

PLANNING CASE #2003-24: Filed by Gerald Johnson, 1929 South Lake Irving Drive SW, applied for a variance to relocate an existing 24 foot by 24 foot garage to the southeast. Also, he proposes to add a 12 foot by 24 foot addition onto the garage, so the size of the structure will increase to 864 square feet, which is less than the maximum sized detached garage of 1,000 square feet. Planning Commission recommends the City Council approve the 15 foot front yard setback variance request to permit the existing garage to be relocated and expanded, with the condition that the existing 10 foot by 12 foot shed, situated partially on the City-owned right-of-way, be removed. Motion by Zachman, second by Johnson, to accept the recommendation of the Planning Commission. Motion carried by the following vote: Ayes: Erickson, Zachman, Lehmann, Meuers, Hellquist, Johnson. Nays: None. Absent: Downs.

PUBLIC HEARING ON PROPOSED ASSESSMENTS – (City Project #02-03, 2002 Street Improvements – 15th Street Portion)

Pursuant to mailed and published notice, copies of which are on file in the City Clerk's office, a public hearing was held to consider proposed assessments to properties benefited by improvements of City Project #02-03. A copy of the proposed assessment roll was provided for Council review. Mayor Lehmann opened the public hearing. Clerk Sherman provided copies of two letters from property owners in the project area.

Robert Olson (rental property at 1424 Minnesota Avenue) requested reconsideration of the rate of interest (8%) that the Council proposes to charge. It was noted that on August 8th the Public Works Committee discussed the interest rate and agreed to keep it at 8%. The length of time for repayment of assessments and the need for deferments are key factors in determining the interest rate.

Hartzel/Myrnych Halverson (rental property at 309 15th Street NW) complained that the contractors had broken a water line to their property, creating some inconvenience, and had not properly restored their lawn when the project was complete. The property owners also suggested that paying off the assessment would create a hardship and that the interest rate being charged exceeds market rates. Engineer Freeberg responded

that the lawn restoration is not complete. The contractor will attempt to finish the restoration this Fall. Freeberg will also follow up with the city's project inspector with regard to the broken water line.

PUBLIC HEARING ON PROPOSED ASSESSMENTS – (City Project #03-05, Water & Sewer to Properties South of Rako Street, East of Lakeview Drive)

Pursuant to mailed and published notice, copies of which are on file in the City Clerk's office, a public hearing was held to consider proposed assessments to properties benefited by improvements of City Project #03-05. A copy of the proposed assessment roll was provided for Council review. Mayor Lehmann opened the public hearing.

No one appeared. The public hearing was closed.

PUBLIC HEARING ON PROPOSED ASSESSMENTS - (City Project #03-09, 15th Street Water – America to Minnesota Avenue)

Pursuant to mailed and published notice, copies of which are on file in the City Clerk's office, a public hearing was held to consider proposed assessments to properties benefited by improvements of City Project #03-09. A copy of the proposed assessment roll was provided for Council review. Mayor Lehmann opened the public hearing.

Communication from Hartzel & Myrne Halverson noted earlier (project #02-03) also pertained to this project. The issues were addressed during that hearing. There were no other appearances. The public hearing was closed.

RESOLUTION NO. 5080: A RESOLUTION IN SUPPORT OF THE JOB OPPORTUNITY BUILDING ZONE (JOBZ) PROGRAM was offered by Councilmember Johnson, who moved its adoption, and upon due second by Councilmember Meuers, was passed by the following 5-1 vote: Ayes: Zachman, Meuers, Lehmann, Johnson, Erickson. Nays: Hellquist. Absent: Downs.

RESOLUTION NO. 5081: A RESOLUTION ADOPTING ASSESSMENT ROLLS FOR CITY PROJECT #02-03 (2002 Street Improvements – 15th Street portion) was offered by Councilmember Zachman, who moved its adoption, and upon due second by Councilmember Hellquist, was passed by the following vote: Ayes: Meuers, Hellquist, Johnson, Erickson, Zachman, Lehmann. Nays: None. Absent: Downs.

RESOLUTION NO. 5082: A RESOLUTION ADOPTING ASSESSMENT ROLLS FOR CITY PROJECT #03-05 (Water & Sewer to Properties south of Rako Street, East of Lakeview Drive) was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Johnson was passed by the following vote: Ayes: Hellquist, Meuers, Lehmann, Johnson, Erickson, Zachman. Nays: None. Absent: Downs.

RESOLUTION NO. 5083: A RESOLUTION ADOPTING ASSESSMENT ROLLS FOR CITY PROJECT #03-09 (15TH Street Water – America to Minnesota Avenue) was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Hellquist, was passed by the following vote: Ayes: Lehmann, Hellquist, Johnson, Erickson, Zachman, Meuers. Nays; None. Absent: Downs.

RESOLUTION NO. 5084: A RESOLUTION DECLARING COSTS TO BE ASSESSED, ORDERING PREPARATION OF PROPOSED ASSESSMENT ROLLS, AND ESTABLISHING A DATE FOR PUBLIC HEARING FOR CITY PROJECT #03-07 (Ash Avenue Watermain) was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Johnson, was passed by the following vote: Ayes: Hellquist, Johnson, Meuers, Zachman, Lehmann, Erickson. Nays: None. Absent: Downs.

RESOLUTION NO. 5085: A RESOLUTION DECLARING COSTS TO BE ASSESSED, ORDERING PREPARATION OF PROPOSED ASSESSMENT ROLLS, AND ESTABLISHING A DATE FOR PUBLIC HEARING FOR CITY PROJECT #02-07 (Alley Improvements, 14th to 15th Street NW between Minnesota and America Avenue) was offered by Councilmember Zachman, who moved its adoption, and upon due second by Councilmember Hellquist was passed by the following vote: Ayes: Erickson, Zachman, Lehmann, Meuers, Hellquist, Johnson. Nays: None. Absent: Downs.

CONSIDERATION OF WEE GWAUS DRIVE PAVING AGREEMENT

At the September 2, 2003 meeting, the City Council accepted the feasibility report and called for a public hearing on the Wee Gwaus Drive paving project. Minke and Freeberg met with representatives from Bemidji Township to develop an agreement to split the cost of paving this joint boundary line road. Councilmembers were provided a copy of the proposed agreement. Minke noted that the negotiated terms include limiting annexation to instances where the owner petitions. He suggested that this provision should have little if any impact. He also suggested that as a matter of policy, the city should be willing to consider reimbursing the township for the cost of public improvements if the city annexes the improvement – if the township recently paid for the improvements.

The terms of the agreement were discussed and it was suggested that the following language be added to Item #3 of the agreement: "If the annexation is effective after December 31, 2008, there shall be no reimbursement".

Motion by Hellquist, second by Meuers, to approve the agreement as amended. Motion carried by the following vote: Ayes: Johnson, Hellquist, Meuers, Lehmann, Zachman, Erickson. Nays: None. Absent: Downs.

CONSIDERATION OF QUOTES FOR ARENA ROOF REPAIR

At the August 4, 2003 meeting the Council authorized solicitation of bids to repair the roof at the Neilsen-Reise Arena. Richard Rude was hired to prepare the specifications for the work, and two bids were submitted as follows:

Bemidji Roofing	\$43,159
DC Berglund Roofing	\$42,378

Staff recommended acceptance of the low bid from DC Berglund. Motion by Hellquist, second by Zachman, to accept the low bid from DC Berglund Roofing in the amount of \$42,378. Motion carried by the following vote: Ayes: Lehmann, Meuers, Zachman, Hellquist, Erickson, Johnson. Nays: None. Absent; Downs.

RESOLUTION ESTABLISHING AN EARLY RETIREMENT INCENTIVE (Removed from the Consent Agenda)

At the September 8th meeting the 2004 Preliminary Budget was approved. Included in the budget was a proposal to offer an early retirement incentive to reduce the 2004 budget and allow some restructuring of the engineering and public works departments. A proposed resolution establishing a policy for the early retirement incentive was presented for Council approval along with copies of the proposed Separation Agreement, Waiver and Release of Claims.

Erickson noted an inconsistency between the proposed resolution and Article IV of the Separation Agreement relating to the number of days in which to complete the release form. The change was noted and the Council agreed that the resolution should be amended to reflect 21 days to complete the release form. Erickson further noted that she is opposed to offering an early retirement incentive on the basis of unfairness to other employees. The amended resolution was offered and passed as follows:

RESOLUTION NO. 5086: A RESOLUTION ESTABLISHING AN EARLY RETIREMENT POLICY was offered by Councilmember Meuers who moved its adoption, and upon due second by Councilmember Hellquist, was passed by the following 4-2 vote: Ayes: Hellquist, Zachman, Meuers, Lehmann. Nays: Erickson, Johnson. Absent: Downs.

BEMIDJI POLICE DEPARTMENT 2002 CRIME REPORT

A copy of the 2002 Crime Report was presented for Council review. Director of Public Safety Bruce Preece was present to respond to questions. It was noted that the City is currently working on an ordinance to deal with nuisance calls. It was noted that a considerable amount of time was spent pulling in the data together for this report. The city is, however, also looking at the possibility of incorporating software in the new LEC that will assist in the preparation of annual reports.

AN ORDINANCE AMENDING AN UNCODED SECTION OF BEMIDJI CITY CODE PERTAINING TO ALLEY VACATION (Planning Case #2003-22 – vicinity of Maurice Avenue) was given a first reading.

DEPARTMENT OF REVENUE HEARING TO BE HELD IN BRAINERD ON SALES TAX ISSUES

Minke noted that the Department of Revenue is holding three hearings around the state to evaluate the local option sales tax. He noted that the evaluation will take on a broader scope than whether Bemidji should get a sales tax. They will be assessing whether cities should have access to the sales tax. Minke asked for Council direction on issues such as: should there be a city election – should it be tied to other revenue sources – should the sales tax be limited to regional projects – should the review process be an administrative approval process or a political one?

Zachman felt the authorization should come from the locals – it becomes too political when you send it to the legislature.

Lehmann noted that Bemidji went through the election process two times in the past five years on a sales tax issue - he supported the need to have an election.

Johnson supported the need to have an election – and to keep it out of the legislature's hands. He also did not feel the regional nature of the project is that important.

Erickson agreed that the regional nature issue is not important.

Lehmann suggested that the review criteria issue needs to be revisited. It currently allows for bricks and mortar – he suggested that maintenance should be allowed prior to the sunset of a local option sales tax.

Councilmembers suggested that the Department of Revenue be made aware of the fact that the City jumped through all the hoops to get the sales tax, including holding an election, and it never received a hearing in the House.

COUNCIL/STAFF REPORTS

Lehmann noted that September 20th is Chuck Melberg Day in Bemidji. He expressed appreciation to Mr. Melberg for his contributions for the betterment of seniors in our city, and encouraged the public to greet him at the Senior Center on the 20th.

Minke noted that BSU Professor Donnay is doing a project with students in his Political Science class and is hoping that some of the City staff and Councilmembers would be willing to take time to meet with one of his students and talk about the role of a Councilmember or other staff member. Minke invited Councilmembers to contact him if they are willing to participate.

Meuers reported that Leah Bratlien has been hired as Program Director for the Boys & Girls Club. The projected opening date for the club is October 15. Meetings will be held at the Seventh Day Adventist School until the area at the old high school.

Johnson commented favorably on the 9/11 memorial ceremony at the waterfront.

Zachman asked about the Cedar Lane Project. Freeberg noted that the contractor suspended work on the Cedar Lane Project in order to complete another project. They will back in a couple of days. Project should be complete before freeze-up.

Erickson noted that the Bemidji Area Race Relations Council is holding an award and recognition luncheon on Thursday, September 18th, at the Eagles Club from 11:30 – 2:00 pm.

Hellquist noted that 55 youth skated on Saturday and Sunday during open hockey at the arena. He commended the arena manager for promoting this activity.

CITIZENS WITH BUSINESS BEFORE THIS COUNCIL – NOT ON AGENDA

Corey Bailey asked what the city's current tax rate is and what the lodging tax is. Minke responded that the city's current tax capacity rate is approximately 30% and the lodging tax is 5%.

MEETINGS

September 17, 2003	Noon	Charter Commission meeting @ City Hall
September 20, 2003	All Day	Chuck Melberg Appreciation Day

ADJOURN

There being no further business presented for discussion, motion by Hellquist, second by Meuers, to adjourn the meeting. All voted aye. Motion carried. Meeting adjourned 8:05 p.m.

Respectfully submitted

Shirley Sherman, City Clerk