

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – September 8, 2009

Pursuant to due call and notice, a regular meeting of the City Council of the City of Bemidji, Beltrami County, Minnesota, was held on Tuesday, September 8, 2009 at 7:00 p.m. in the Council Chambers of City Hall, Mayor Lehmann presiding.

Upon roll call, the following Councilmembers were declared present: Lehmann, Waldhausen, Johnson, Hellquist, Negard, Meuers Absent: Downs

Staff Present: City Manager John Chattin, City Attorney Alan Felix, Public Works Director/City Engineer Craig Gray, Finance Director Ron Eischens, Parks & Recreation Director Marcia Larson, City Clerk Kay Murphy

AMENDMENTS TO AGENDA

Mayor Lehmann called for any amendments to the agenda. **Motion by Johnson, seconded by Waldhausen, to approve the agenda as presented. Motion carried by unanimous vote.**

MINUTES

Minutes of the August 17, 2009 regular meeting, August 10 work session, August 24 work session and August 24 BEDA meeting were presented for approval.

Negard stated that he believed the motion in the August 10 work session meeting was directing Chattin to present the request for an 80 foot height limit on the BREC and not that the Council supported it. Mayor Lehmann requested the City Clerk to check the tape regarding the motion and bring the minutes to the next regular council meeting for their consideration.

Johnson noted that he believed that Councilor Downs statement on Page 2 of the August 10 work session minutes should be revised to state "...that the Community Development position is not what he expected." Johnson stated that this was Councilor Downs belief and not the entire Council's. He asked for his comment regarding the elimination of the community development director position being delayed be added to the August 10 minutes.

Johnson noted the following correction to his comment on the first page of the August 24 work session minutes should read: "Johnson commented that at the initial meetings with the Townships they discussed the idea of a park district for all parks."

Motion by Negard, seconded by Johnson, to approve the August 17 regular meeting, August 24 work session and August 24 BEDA minutes as amended. Motion carried by unanimous vote.

CONSENT AGENDA

The following Consent Agenda items were presented for approval. **Motion by Johnson, seconded by Meuers, to approve the Consent Agenda items as follows:**

1. Claims submitted by the Finance Officer in the total amount of \$1,847,911.31
2. Miscellaneous 2009 Business License Renewals
3. 1 Day Temporary Consumption & Display Permit on 10/16/09 – Art Center
4. 1-4 Day Temporary On-Sale Liquor Licenses:
 - 10/2/09 & 10/3/09 – BSU Alumni
 - 11/3/09 - BSU & Paul Bunyan Broadcasting
5. Letter of Support for Northern Dental Access Center
6. Waived Permit Fees - Habitat for Humanity (316 Central Avenue SE)
7. **RESOLUTION NO. 5575:** Repair or Remove Structure(s) Located at 1325 4th Street SE
8. **RESOLUTION NO. 5576:** Adopting the Central City Plan (RDG Downtown)
9. **RESOLUTION NO. 5577:** Approving Preliminary 2009 Tax Levy Collectible in 2010 and Setting the Truth in Taxation Hearing Date
10. 2010 Prosecution Services Agreement with Beltrami County Attorney's Office

Motion carried by unanimous vote.

COMMITTEE REPORTS

Bemidji Youth Advisory Commission

Waldhausen reported that the BYA Commission will attend the next Council meeting with full membership to introduce themselves and new members.

BSU Student Senate

Leo Clark and Andrew Spaeth, Co-Presidents. Clark report that the elections for the student senate are coming up soon and will wrap up on September 14. Senate is working on a student section for every game, Community Appreciation Day at BSU was well attended, and the Student Senate will be doing a highway cleanup on September 13. They are working with Paul Bunyan Transit to work on routes to include apartments which will get students on campus without driving. Discussion continued regarding the increase of freshman and transfer students at BSU.

Waldhausen commented that the location for the BSU Appreciation Day was one of the best used in years and hoped to see the same location in the future.

NEW BUSINESS

Presentation regarding a Multi-Family Housing Project

Steve Kuepers, Podawitz Development Corporation seeking Council support for the application for funding for a 32-unit townhouse project in Bemidji. He stated that the project financing includes 9% tax credit program administered by the Minnesota Finance Agency (MHFA), the total cost of the project is \$4,946,931. Financing will come from the following sources: approximately 3,548,300 from tax credit, approximately \$162,000 from 1st Mortgage and approximately \$200,000 from Developer Equity. He stated that if the project is funded at the \$3 million amount they will apply for TIF but at this time they are applying without TIF. He stated that the action requested for the City Council is approval of a resolution supporting the housing application for the housing tax credits and gap funding. He stated that it is very competitive for funding but he believes that the project has a good chance for funding.

Mayor Lehmann asked if the Council approved a resolution supporting the project and they move forward for grant application, that he had concerns that the developer may get the message that the Council will approve tax increment financing in the future.

Mr. Kueppers responded that they are concentrating on the “soft money” but left TIF in the presentation because he cannot one hundred percent say they would not ask for TIF.

Hellquist commented that the City is committed to a significant amount of money for a temporary road and asked if there would be additional expenses in this regard for the City.

Chattin responded that this project could potentially result in a cost savings for the City as a road will be developed.

Discussion continued regarding tax increment financing.

RESOLUTION NO. 5578: Supporting a Tax Credit Application for a Multi-Family Housing Project (Pine Haven Townhomes) was offered by Councilmember Meuers, who moved its adoption, and upon due second by Councilmember Waldhausen was passed by unanimous vote.

Use of Committed Program Income

Flathers reviewed his request for funding of an additional project in the first phase of the downtown improvements. The City Council agreed to submit a pre-application for Small Cities Development Program funds to support affordable and rather than using the entire \$40,000, he suggested that it be included with other money to complete one more project this year. He recommended that the Council authorize the HRDC to use \$17,600 this year of the \$40,000 committee this year which would result in a higher grant request.

Hellquist asked if it would be a downtown rehab or rental unit and asked if all the funds for rental rehabs have been used?

Flathers replied that the project would be for a downtown rehab; however, there has been no one selected yet. The money for rental rehabs has been spent down. He noted that there have been approximately 17 commercial rehabs and 13 rental rehabs to date. He noted that there is interest by commercial businesses.

Motion by Hellquist, seconded Negard, to commit \$17,600 for an additional project this year in the first phase of the downtown improvements. Motion carried unanimously.

Decertification of Fairgrounds Tax Abatement District

Eischens stated that in 1998 the City established the Fairgrounds Abatement District for purposes of providing public improvements to the former Beltrami County fairgrounds area. The City issued general obligation bonds, utilized city development dollars including Telnet revolving loan funds and special assessments to finance these improvements. The bonds related to this project will be paid off in December 2009. He recommended decertifying the Fairgrounds Abatement Development District effective December 31, 2009 which will terminate the extension provision. If the Council chose to not to exercise the district extension, it will cancel the interfund loan balance with the general fund.

Motion by Hellquist, seconded by Johnson, to decertify the Fairgrounds Abatement District effective December 31, 1009. Motion carried unanimously.

Comp Worth/Pay Equity Study

Chattin stated that the City Council authorized issuing an RFP for a pay/compensation study at their June 15, 2009 meeting. The City's most recent job study was completed in 2004 by Riley, Dettman & Kelsey. Unfortunately, this firm has dissolved and therefore unable to assist us. Chattin recommended that the study be completed due to significant changes made to the City's organizational structure and various job descriptions.

Meuers asked how the pay equity will be implemented and would pay adjustments be made?

Chattin responded that staff does not anticipate any pay adjustments. There would be no internal equity tool using two different assessment tools.

Hellquist asked if the state provided this service. Eischens responded that the state does not provide this service; however, the City submits a report to the state annually to prove pay equity.

Waldhausen stated since the City currently partners with the County on many items, perhaps we could negotiate a package deal with the County to get a better price.

Chattin stated that he has visited with the County Administrator and they are interested in utilizing Springsted to conduct future job studies for the County. However, the County is only interested in using Springsted for assessment of new positions or re-assessment of changed positions.

Johnson asked why the second lowest bidder was being selected and not the lowest.

Chattin stated there was several of reasons why staff recommended Springsted, most importantly, they are a large firm and will be around in the future.

Hellquist asked if there was any reason why the City could not delay doing the study for another year.

Chattin responded that without a compensation study there is no mechanism in place for assessing positions when there are personnel changes.

Eischens stated completion of the study will assist the City in future union contract negotiations as well.

Motion by Johnson, seconded by Waldhausen, authorizing the City to enter into a contract with Springsted at a cost of \$15,540 to conduct a City-wide job/compensation study with funding from the contingency line item budget. Motion carried unanimously.

BREC Change Orders

Greg Judge, Kraus-Anderson, provided an update on activities at the BREC site. He stated that they are preparing to set the large trusses which are a milestone in the construction of the event center. He stated that the small truss will be set by the end of this week and the larger trusses will be set the following week.

Chattin commented that there is a public viewing area near the entrance by the construction trailers.

Clinton Gronhovd, Kraus-Anderson, requested approval of change orders totaling \$325,663.44.

Negard asked for an explanation on the large number of changes orders and the amount.

Gronhovd stated that some of the change orders are due to the site condition, i.e., wood chips, soils and increase of services. In addition, he noted that a number of the changes have been to provide services for future development. The change orders are very common for a job of this size.

Motion by Waldhausen, seconded by Johnson, to approve the Change Orders totaling \$325,663.44. Motion carried with the following vote: Ayes: Hellquist, Waldhausen, Johnson, Lehmann, Negard. Nays: Meuers.

Appeal of Revocation - Livestock Permit

Mayor Lehmann reviewed the request for appeal of revocation of livestock business permit issued to Sam Kvale for chickens at 1227 Norton Avenue NW. Mayor Lehmann commented that there is approximately two weeks left before the chickens will be butchered and recommended that the Council consider allowing the activity to continue until September 20 but not one day more. Furthermore, that the Council not issue another permit for this type of activity.

Hellquist commented that Ms. Hagestad has a medical slip from her doctor and if they have to butcher the chickens 10 days early, so be it, why subject Ms. Hagestad any further to the chickens. He stated that the one complaint has been received and the chickens should be removed.

Felix noted that Sam Kvale and Shannon Murray are not aware of the doctor's slip as it was not available when they stopped in. He stated that there is an issue with planning and zoning as far as livestock within the City, however, there is a "movement" statewide with people interested in growing their own food, i.e., vegetables or livestock. He stated that there may be recommendations in the future regarding livestock after working with the JPB.

Shannon Murray, 1227 Norton Avenue NW, stated that they have taken the health concern raised by the neighbor very seriously and have spoken to a number of local, county and state agencies. She stated that the University of Minnesota stated that only through direct contact with the birds or manure. She noted that none of the individuals that work with the chickens have been ill. Ms. Murray further stated that from information she has gathered this particular illness was transmitted from birds, typically from pigeons or birds of that nature. In addition, she provided a veterinary paper giving her chickens a "clean bill of health".

Sam Kvale, livestock permit applicant, stated that he was raising the birds for the community because he believed they are healthier than commercially grown chickens. He stated that the precautions taken have produced healthy birds.

Meuers asked Mr. Kvale how much they have invested in the chickens. Mr. Kvale responded approximately \$800.

Negard asked what the difference would be if the chickens were butchered one week early? Mr. Kvale replied that the birds would be about a pound to a pound and a half smaller.

Deb Hagestad, complainant, stated that she used to raise pigeons but had to give it up after she developed respiratory issues and "bird breeder's lung". She said that after 18 months of treatment, she recovered in 2004. However, the symptoms have returned due to the presence of the chickens. Ms. Hagestad stated that she has begun taking medicine and three breathing treatments daily. She provided a copy of a note from her doctor at Bemidji Meritcare regarding her illness.

Negard stated that the birds are approximately 300 feet from her home and inquired if Ms. Hagestad had any other pets.

Ms. Hagestad stated that the location of the chickens was too close to her property and she does not own any pets. The symptoms came on about one month after the chickens were brought on site.

Meuers asked the condition was caused 100% by the chickens. Ms. Hagestad responded that she believed it was the chickens causing her the breathing problems.

Waldhausen stated that he was concerned about Ms. Hagestad's health and recommended she visit a pulmonologist for respiratory disorders. He stated that it was hard to determine whether the condition was caused by the chickens or perhaps could be caused by other environmental impacts.

Ms. Hagestad stated that it is the dust from the birds that was affecting her breathing.

Johnson made the observation that sometimes the chickens were closer to Ms. Hagestad's property as they are moved around the property.

Hellquist stated that the chickens are endangering Ms. Hagestad's health and for Mr. Kvale the chickens were a hobby, maybe a little moneymaker. It was stated in black and white what was to happen if there was a complaint.

Motion by Meuers, seconded by Waldhausen, to allow the chickens no later than September 18. Motion failed with the following vote: Ayes: Lehmann. Nays: Hellquist, Meuers, Waldhausen, Johnson, Negard.

Discussion continued with the following comments made by Councilmembers:

- Noted that the chicken farm was very clean;
- Supported their effort;
- Health of Ms. Hagestad was very important
- The property owners and Kvale have spent a lot of money and time on the project

Officer Charboneau, Bemidji Police Officer, stated that he has no problem with the way the operation was being run, however, the health takes a priority over that. If it is to be relocated within the city, he could check with neighboring property owners and a site survey on Wednesday.

Felix stated that if the chickens are moved to another location in city limits it would raise a home occupation and zoning issue and a permit by the JPB could be required.

Hellquist stated he felt that it needed to be studied as to whether the City wants this large number of chickens within city limits and that no temporary permit should be allowed.

Motion by Negard, seconded by Waldhausen, for the chickens to be removed from City limits by 5:00 p.m. on Thursday, September 10. Councilor Waldhausen withdrew his second to the motion.

Motion by Negard, seconded by Johnson, for the chickens to be removed from City limits by 5:00 p.m. on Thursday, September 10. Motion failed with the following vote: Ayes: Negard, Lehmann, Johnson. Nays: Meuers, Hellquist, Waldhausen.

Motion by Waldhausen, seconded by Meuers, to grant a temporary permit until October 1 to move the chickens to an alternate location within city limits approved by Officer Charboneau and the chickens need to be removed from 1227 Norton Avenue by Wednesday, September 9, at 5:00 p.m. Motion failed by the following vote: Ayes: Meuers, Lehmann, Waldhausen. Nays: Negard, Hellquist, Johnson.

Motion by Hellquist, seconded by Johnson, to remove the chickens within 24 hours with no temporary permit. Motion carried with the following vote: Ayes: Hellquist, Lehmann, Johnson, Negard. Nays: Waldhausen, Meuers.

Quality Neighborhoods Survey

Lehmann briefly reviewed Quality Neighborhood Initiative (QNI) discussion information prepared by Rita Albrecht, Community Development Director. At their August 3, 2009 meeting, the City Council identified the need for a study to address the transition of owner-occupied single-family housing to rentals and the perceived problem of neighborhood blight.

Johnson stated the Committee (Downs, Waldhausen, Johnson) met to discuss how to improve our neighborhoods. He stated that the Committee recommended the Council do a study which would involve community input. The Committee recognized that in order to do this study a facilitator or consulting firm was needed to coordinate the efforts. Johnson recommended that the Council consider the Community Development Director to facilitate this process; however,

the Council would need to discuss that position further. He asked for support from the Council to allocate the funding for the QNI.

Waldhausen stated that the QNI was scheduled for September 22 at City Hall. He commented that someone needs to do this study for the City and if we do not have a person to do the study in-house, the City will have to hire someone.

Johnson stated that depending on the scope and the resolution of a study, the study could cost between \$35,000 to \$50,000.

Hellquist stated he participated as a Planning Commission member when the City did the original rental license ordinance. He stated that he did not believe there was a need for a firm but utilize City staff and individuals in the community. He supported the study but not keeping the position of Community Development Director.

Negard stated that there are experts that developed the existing ordinances in-house and he believed that if too many people are involved in the process that the objective will not be accomplished. He also was concerned that people will have an agenda.

Johnson stated that the discussion will be more than just rentals but quality neighborhoods.

Chattin stated that Rita Albrecht is the team person with the planning expertise and to think that the other existing staff has the expertise or time, simply is not true.

Waldhausen stated that he recently visited with a neighbor who commented that there has been studies with no results or support from the Council in the past.

Charboneau responded that when he was hired in 1990 under a Community Policing Grant there were neighborhoods that he met with on a monthly basis. He stated there was much success with a number of the issues and concerns but they were unable to address problems without resources. He commented that the advisory board is contingent on whether the group will work together for the bigger picture and who serves on the board.

Hellquist stated that there are four months remaining for the Community Development Director's position and he thought that perhaps she could start the process.

Lehmann responded that the City should not count on Ms. Albrecht remaining the four months, she may elect to quit sooner.

Waldhausen stated that there is a sense of urgency by the residents in Ward 1 and other wards.

Lehmann suggested that perhaps the Community Development Direction position could be kept as that position could take this on along with her other duties.

Meuers stated that there was a four-three vote on the elimination of the Community Development Director's position and that vote should be abided by. She then compared it to the event center vote which was also a four-three vote.

Discussion continued on Request for Proposals for a consultant. Felix stated that it makes good sense to cast a wide net for professional services but they can set up the parameters.

Motion by Hellquist, seconded by Waldhausen, authorizing an RFP for a Quality Neighborhood Initiative consultant. Motion carried by the following vote: Ayes: Meuers, Negard, Johnson, Hellquist, Waldhausen. Nays: Lehmann.

OLD BUSINESS

City Park Phase One Construction

Johnson asked if the softball association has made plans for when the softball fields are unavailable next summer. Larson responded that the Softball Association is aware of the construction.

Motion by Waldhausen, seconded by Negard, to award the bid for City Park Phase One construction to J.D. Hansen & Sons in the amount of \$674,087.35. Motion carried unanimously.

ORDINANCES

AN ORDINANCE Amending Chapter 1 of the Code of Ordinances (Part II), by Adding a Section Pertaining to the Establishment of Administrative Citations and Civil Penalties was given a first reading.

AN ORDINANCE Amending the City Fee Schedule adding Administrative Fines was given a first reading.

AN ORDINANCE Amending an Uncoded Section of the Bemidji City Code Authorizing the Transfer of Real Property (Paul Bunyan Transit) was given a first reading.

AN ORDINANCE Amending an Uncoded Section of the Bemidji City Code Pertaining to Street Vacation (Portion of 2nd Street SE - Keith Andersen) was given a first reading.

AN ORDINANCE Amending an Uncoded Section of the Bemidji City Code Pertaining to Easement and Street Vacations (Vista North) was given a first reading.

LIBRARIAN’S REPORT

Paul Ericsson, Branch Manager, discussed library services provided over the internet. Go to the library’s website and on the left side click on e-resources and new item is the Britannica there available for the public to use. On October 26 at 7:00 p.m. the Friends of the Library will be celebrating their 26th Anniversary.

CITIZEN NOT ON AGENDA

Adam Steele, 189 Gemmel Avenue SE, stated that he has problems with getting the City noise ordinance enforced. Mr. Steele stated that the house next door to him is a rental and the homeowner does not oversee his renters. He cited a number of problems in his area. He provided a list of complaints to the City Council.

William Hartwell, 17986 Century Lane, Pinewood, he stated he is familiar with the chicken farm. The Bemidji community has been very supportive of the food shelf and there is a need for local efforts to provide vital food supplies to take the pressure off of public services. He stated that these efforts should be encouraged.

Pollard Sorquist, 16th & Bixby, stated that growing chickens was a health care issue for all involved and not a hobby for the people that are growing them. He noted that it has been a lot of work with those involved.

UPCOMING MEETINGS

Monday, Sept. 14	5:30 p.m.	Work Session – Liquor Operations
Monday, Sept. 21	7:00 p.m.	Council Meeting
Wednesday, Sept. 23	6:30 p.m.	Joint Work Session with Bemidji & Northern Twp Re: Annexation @ Northern Town Hall
Monday, Sept. 28	5:30 p.m.	Work Session – Heritage Preservation Comm. @ Art Center

COUNCIL/STAFF REPORT

- Hellquist reported that the Airport Commission has gone back to the original assessment amount on their tax levy. He noted that the projects at the airport are moving along pretty much on schedule. Hellquist noted a document he received regarding the quality of neighborhoods and disc with pictures.
- Waldhausen reported that Parks & Trails Commission met and the skateboard association will meet in October regarding the skateboard park. Nate Dorr worked on changing the height requirements which will allow sanctioned skateboard events to be held at our skateboard bowl. BYAC orientation was held in the later part of August. BSU student senate will meet officially tomorrow afternoon. He reported that a Health Fair Carnival will be held on September 19 at the Waterfront Park in conjunction with the west shore trail development. The event is a partnership with B-Well, City Parks Department and other groups to promote active living in the City.
- Johnson reported on the Public Affairs Committee meeting who met with Upstream TV. He stated that Upstream TV is in the process of creating a public channel and looking for City support for acquiring a channel from the two television systems. He discussed upgrades to the current government access television. Johnson stated that there are committees that Ms. Albrecht covers regarding the BREC and southshore development and would like to see the plan for her replacement.

- Negard provided an update on the archery hunt stating that there are 32 applicants, 8 public sites - 11 of those sites are on private land. He noted that the numbers are down this year for the hunt.
- Gray reported on the status of projects in City limits noting that the new Lake Irving access road is open for access to the WWTF.
- Felix commented that the result of the order regarding the Birchmont Drive assessment appeal has been given but Northern Township's attorney has not reviewed it with Northern Township yet. As soon as that happens, he will advise the Council.
- Chatten stated that Steve Parker, Leo A Daly, will be here on Thursday and Friday regarding some problems on the site and will be attending the sign and art committees. He is looking for a developer review committee for different types of development on the south shore. He would like two councilmembers that would like to volunteer to serve on that committee. Waldhausen and Negard volunteered.

ADJOURN

There being no further business, motion by Meuers, seconded by Waldhausen, to adjourn the meeting. Motion carried. Meeting adjourned at 9:55 p.m.

Respectfully submitted,



Kay M. Murphy
City Clerk