

CITY COUNCIL PROCEEDINGS

Bemidji, Minnesota

July 18, 2005

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, July 18, 2005 at 7:00 p.m. in the Council Chambers of City Hall, Mayor Lehmann presiding.

Upon roll call the following council members were declared present: Downs, Erickson, Markeson, Lehmann, Meuers, Hellquist, Johnson.

Mayor Lehmann and the council members extended appreciation to City Clerk Shirley Sherman for 25 years of employment with the City of Bemidji and wished her well in her retirement.

Amendments to the Agenda

Lehmann called for any amendments to the agenda. Motion by Markeson, second by Downs, to approve the agenda as presented. Motion carried by unanimous vote.

Minutes

Minutes of the June 27, July 5, July 7, and July 11, 2005 minutes were presented for approval. Markeson requested some minor adjustments to the July 5 minutes relating to the City Arena discussion. Those adjustments were noted. Motion by Markeson, second by Johnson, to approve the July 5th minutes with amendments as noted, and to approve the June 27th, July 7th and July 11th minutes as presented. Motion carried by unanimous vote.

Consent Agenda

Ten consent agenda items were presented for approval. Erickson requested removal of item #8 (purchase of parking enforcement vehicle for Police Department) for further discussion. Motion by Downs, second by Meuers, to approve the remaining consent agenda items as follows:

- Approved claims submitted by the Finance Officer in the total amount of \$411,579.67
- Approved a secondhand goods business license for Gander Mountain
- Approved recommendations for appointments of Rodney Witt and Paul Richards to the Charter Commission
- Approved Police Department Security Services Agreement with North Country Health Services
- Approved funds for implementation of the Deer Management Plan in the amount of \$4,000
- Approved **RESOLUTION NO. 5238** establishing regular Council work sessions on the 2nd, 4th, and 5th Mondays at 5:30 p.m.
- Approved waiver of building permit fees for Habitat for Humanity for 1200 America Avenue
- Approved the City's updated Affirmative Action Plan

Motion carried by unanimous vote.

Bemidji Youth Advisory Commission

No Report.

Public Hearing on an Ordinance amending the Pawnbrokers, Secondhand Goods and Junk Dealers Ordinance.

Pursuant to published notice, a public hearing was held to consider the proposed amendments to Chapter 6, Section 6.40 of the Bemidji City Code pertaining to Pawnbrokers, Secondhand Goods and Junk Dealers.

On July 5, 2005 the City Council held a first reading on the 4th draft of the proposed amendments to the existing Pawnbroker, Secondhand Goods and Junk Dealers ordinance (Section 6.40 of the CodeBook

Mayor Lehmann invited the Council to comment on the issue.

Markeson restated his opposition to the transaction fee noting that this is an unfair way to tax this specific group of people. He said it is a –

- Bad tax policy because it singles out one group of people and one group of businesses to pay for law enforcement that protects the entire community.
- Bad social policy because most governmental entities try to find ways to make it easier for people that are in difficult financial times – this fee would tax them more.
- Bad economic policy because it has the potential of forcing businesses currently operating in the City and Beltrami County to areas just a few miles away in counties where the regulations are less rigorous. He expressed the need to support small businesses and find ways for them to operate in our community.

Markeson questioned how many other cities are joining this program and instituted the fee. Assistant City Attorney Brand provided a list of 31 Minnesota cities that have implemented the system and have instituted the fee.

Markeson suggested that the City find a fair way to tax this program that will be used by law enforcement and will benefit the residents of the entire community. He made a motion, second by Erickson, to delete Subdivision 7 of the proposed ordinance relating to Billable Transaction Fee. The motion failed by the following 6-1 vote: Ayes: Markeson. Nays: Meuers, Lehmann, Downs, Johnson, Erickson, Hellquist.

Mayor Lehmann opened the public hearing and invited those present to comment on the proposed ordinance. Lehmann suggested that the comments address the most recent language amendments.

Don Josefson, Better Days Pawn, 320 Paul Bunyan Drive SE, asked for a recap of the proposed changes – how this amendment differs from the amendment proposed in May.

Assistant Attorney Brand noted that this amendment:

- Eliminates the \$20 minimum transaction that would qualify as a “reportable transaction” (requires that all transactions must be reported)
- Provides that a business conducting less than 400 transactions per year is not required to report transactions through the APS
- Changes the date of implementation to January 2006.

Josefson said he could find no justification for charging a fee to maintain the system. He did not think it was reasonable to charge customers – some that are already in financial stress – to pay a fee to catch criminals. He asked whether there had been any increase in solving crimes for cities using this system. Ms. Brand responded affirmatively.

Josefson questioned the value of the system, which relies heavily on serial numbers. He stated that very few household valuables have serial numbers, making it difficult to solve crimes. He also asked where the money is going and questioned whether Bemidji had considered starting its own data base. Lehmann noted that research has found that the cost to create, implement and maintain a system would be far greater than the fee to participate in this program.

Don Whitman, Pawn USA, 207 2nd Street, expressed opposition, stating that the City should not mandate a program that requires new equipment, set up and man hours to transfer 4-5 years of data. He suggested that there are other programs available and suggested that the law enforcement center look into some of those options. Other comments by Whitman included:

- Picture taking does not have to be a part of the ordinance – other cities have adopted similar ordinances but have not included the requirement for pictures.
- Too costly – \$2,300 will not purchase the equipment and pay for people to implement it. Bar coding will be changed and all items in the store must be relabeled. He estimated the cost to be approximately \$10,000.
- The January 2006 timeline is too restrictive.
- He is convinced that there is a better than average chance that the county is not going to pass a similar ordinance.
- Regulations on precious metals are too restrictive – cannot be held for 30 days – gold and silver coins must sell immediately.
- There should be no exemptions from the ordinance, including secondhand furniture dealers and those shops selling less than 400 items per year.

Whitman highlighted a variety of items in the ordinance, which he said were ambiguous. He questioned whether the City Attorney's office and law enforcement personnel had been totally honest with him. He suggested that the Council trash this ordinance and ask the community what is needed.

Audrey Thayer, 835 Lake Avenue, expressed the need to be consistent with all pawnbrokers and businesses affected by the ordinance. She commented on the need for pawnshops and how families use their services. She questioned the need for more ordinances and more restrictions and expressed concerns that local businesses are suffering. She expressed support for law enforcement when they are dealing with individuals that need to be corrected. She suggested that the council table the ordinance and do more research.

Detective Sergeant Jerry Johnson, Bemidji Police Department noted that when the current ordinance was passed the City had two pawnshops. Today we have 3 pawnshops and approximately 10 secondhand goods dealers and the law enforcement personnel are still processing slips and conducting searches manually. He said the APS is a valuable tool for law enforcement and will allow them to search nationwide for stolen items and to identify the perpetrator. Johnson expressed appreciation to the pawnshops for their cooperation in the past and expressed the desire to continue to be able to work together.

Don Josefson, Better Days Pawn asked if there have been cases in Beltrami County that have not been prosecuted because the attorney did not have a picture of the perpetrator. County Attorney Tim Faver responded that there have been cases in Beltrami County that were not prosecuted because the perpetrator could not be identified with the available information.

There being no further comments, Mayor Lehmann closed the public hearing.

An Ordinance Amending Chapter 6 Of The Bemidji City Code By Repealing Section 5.40 Entitled Pawnbrokers, Secondhand Goods And Junk Dealers, And Adding A New Section 6.40 Relating To The Licensing And Regulations Of Pawnbrokers, Secondhand And Precious Metal Dealers, And To Adopt, Establish And Implement The Use Of The Automated Pawn System (APS) In Furtherance Thereof was given a 2nd Reading.

Planning Case #2005-10 ~ Leila Bruni, requesting to build a new detached garage 10 feet from her west, or exterior side property line. A 20-foot exterior side yard setback is required for this property, therefore, a 10-foot exterior side yard setback variance is being requested. The property is situated at 519 Oak Street SW. Planning Commission recommended approval. Motion by Hellquist, second by Johnson, to approve the request. Motion carried by unanimous vote.

Planning Case #2005-11 ~ Steven Inkel, requesting a variance to build an addition to his existing commercial building situated at 1008 Paul Bunyan Drive NW. The addition is proposed to be built six feet from the west, side property line. A 10-foot side yard setback is required in this B-2 (Shopping Center / Highway) district. Therefore, a four-foot side yard setback variance is being requested. The existing building is situated six feet from the West Side property line. Planning Commission recommended approval. Motion by Downs, second by Markeson, to accept the recommendation of the Planning Commission to approve the variance. Motion carried by unanimous vote.

Planning Case #2005-12 ~ Douglas Crosby, requesting two variances. The first is an after-the-fact variance for a deck built on the front and north side of his house situated at 617 Lake Avenue SE. The house is situated 22 feet from the front property line and the deck encroaches an additional four feet toward the front property line. Therefore, an additional four-foot encroachment, front yard setback variance is being requested. The second variance being requested is for a proposed bedroom addition on the back of the house. The applicant proposes to continue the existing house, south side yard setback of two feet. A seven and one-half foot side yard setback is required, therefore, a five and one-half foot side yard setback variance is being requested. Planning Commission recommended approval of the first variance and denial of the second variance for a bedroom addition.

Erickson noted that the Joint Planning Commission has discussed a potential change to setback requirements in certain areas of the city where older homes exist on smaller lots. She noted that the current setback requirements create a hardship by making it difficult to improve these homes other than with paint and new windows. She also compared this request to Planning Case #05-11 (Steven Inkel), and said she hardly sees the difference. Based on the fact that the Council approved the Inkel variance and this request does not

create an encroachment on the neighbor's rights, and the neighbor has not expressed opposition, motion by Erickson, second by Johnson, to approve both variance requests.

Motion carried by the following 6-1 vote: Ayes: Lehmann, Downs, Johnson, Erickson, Markeson, Meuers. Nays: Hellquist. Absent: None.

Planning Case #2005-14 ~ North Country Health Services, requesting a variance to add a 42 square foot ground mounted sign on their property located at 800 Bemidji Avenue North. The sign section of the Bemidji Zoning Ordinance permits one 24 square foot sign per street frontage, therefore, an 18 square foot variance is being requested for the proposed new sign situated along Bemidji Avenue North. Planning Commission recommended approval. Motion by Hellquist, second by Meuers to approve the request. Motion carried by unanimous vote.

RESOLUTION NO. 5239: Accepting Feasibility Report and Calling for a Public Hearing on Extension of Water/Sewer Utilities to Properties Located Along Birchmont Drive NE and Connection Streets was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Johnson was passed by unanimous vote.

Presentation – Jim Birchem, President/CEO of Eldercare of Minnesota

Jim Birchem provided a brief history of the work done in our community by Eldercare beginning with their purchase of Beltrami County Nursing Home (renamed Havenwood Care Center) in 1995, construction of BirchHaven senior apartments in 2000, and a partial remodeling/downsizing of Havenwood Care Center in 2002 to include a specialized unit for 18 residents with dementia.

Birchem provided an overview of a proposed project for 2006 including another renovation of Havenwood Care Center and construction of Tamarack Village Apartments, which would be attached to Havenwood Care Center. He said the new construction would complete four levels of care in a single campus setting:

1. Congregate (Birchhaven Village) apartments with minimal services.
2. Assisted Living (Tamarack Village) apartments with 24-hour services.
3. Assisted Living (Heritage Home) rooms with 24-hour services.
4. Skilled Nursing Facility (Havenwood Care Center) rooms with 24-hour skilled nursing services.

Birchem noted that the completion of this project would respond to a significant demand for senior services and enhance the quality of life for the senior population.

Financing for the proposed development was reviewed including the concept for Tax Increment Financing to complete the package. He said the Department of Housing and Urban Development would like to see support for the project from the City of Bemidji.

Hellquist requested information on marketing strategies and other information relating to the business plan including the research conducted and the projected cash flows.

Johnson inquired about the purpose for downsizing Havenwood Care Center. Birchem noted that in addition to a state incentive to close beds, today's seniors are looking for private rooms, so some of the renovation includes making single rooms out of double rooms.

Lehmann noted that the Council would discuss the issue and consider a response in the near future. The Planning Commission will hold a public hearing on July 25th to consider a special use permit application for building the new units on approximately 1.6 acres

Discussion – Request to Purchase a Parking Enforcement Vehicle

Erickson removed this item from the consent agenda for further discussion. She asked about the necessity for a 4-wheel drive vehicle for parking enforcement. Director of Public Safety Bruce Preece noted that they have looked at a number of vehicles. This one is standard with four-wheel drive and comes with safer, more efficient right-hand steering. He also noted that the Police Department has 24 vehicles – 4 are 4-wheel drive. This vehicle will be equipped much like a patrol vehicle and could be assigned to a patrol officer to navigate over poor road conditions. Motion by Erickson, second by Downs to authorize purchase of the proposed vehicle for parking enforcement. Motion carried by unanimous vote.

Consideration of Airport Request for \$15,000 contribution

Airport Manager Harold VanLeeuwen presented a request for \$15,000 from the City (contingent upon a similar contribution by the County) to provide funding for additional economic development activities at the airport. Minke recommended authorization to transfer funds to the airport using the UDAG funds currently reserved for the airport. He asked the Council to determine whether the reserve should be replenished from the 2006 budget.

Motion by Erickson, to approve the transfer of \$15,000 from airport reserves for economic development activities at the airport. Johnson asked if the motion included a provision for a similar contribution of \$15,000 from the County. Erickson stated that her motion is contingent upon a similar contribution by the County. Johnson seconded the motion. Motion carried by unanimous vote.

Consideration of Request from Paul Bunyan Transit for \$15,000

Lehmann reported that this request is no longer necessary as funding was approved in the state budget.

Approve RFP for Audit Services

Finance Director Ron Eischens requested authorization to solicit proposals for audit services for the four-year period 2006 – 2009. Eischens suggested that proposals be referred to the Public Affairs Committee for recommendation to the Council. Motion by Downs, second by Hellquist, to authorize RFP's for audit services with subsequent review to be completed by the Public Affairs Committee. Motion carried by unanimous vote

Chat-a-Bout Program Topic for August 1

Markeson and Minke will discuss the 2006 budget.

Citizens with Business Not on Agenda

Patricia Ryan, 329 Rako Street SW, inquired about modifications to a Planned Unit Development at 407 Ranch Circle. She recently learned that the proposed berm was not going to be completed as proposed. She was concerned about possible storm water runoff and the impact on their property. Minke noted that the City's ordinance allows for minor modifications to plats without the need for a public hearing or Planning Commission/City Council review. Minke reported that he talked to Mr. Ryan last week and has prepared a letter responding to the issue. Council will receive a copy of the letter.

Upcoming Meetings

- July 19 – 5:30 p.m. – Meeting with DDA to discuss the parking ramp
- July 20 – 5:30 p.m. – Tour beginning at Nymore ice arena –
public input meeting at 7:00 pm
- July 22 – 8:30 a.m. – Legislative update
- July 25 – 5:30 p.m. – Tour of city facilities
- July 26 – 5:30 p.m. – Community events center public meeting
- August 2 – National Night Out (informational packets available at City Hall)
- August 8 – 5:30 p.m. – Preliminary budget meeting – Departmental reports
- August 22 – 5:30 p.m. – Parks and trails – preliminary report on sales tax use

Council/Staff Reports

Minke commented on remarks made during the public hearing on the pawnshop ordinance that questioned the integrity of the City Attorney's office and law enforcement personnel. Minke noted that the speaker was not totally informed on the issue and had apparently not accessed information that is readily available to the public. He stated that the idea of the APS system was generated approximately five years ago by City and County law enforcement personnel as a tool to assist in solving crimes. The City Attorney and Director of Public Safety began working together recently to bring the idea to fruition.

Lehmann recognized Bemidji Youth Advisory Commission Member Jon Staff for representing the area youth recently at Boy's State and Boy's National.

ADJOURN

There being no further business, motion by Downs, second by Erickson, to adjourn the meeting. Meeting adjourned at 9:45 p.m.

Respectfully submitted,

Shirley Sherman,
City Clerk