

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

April 7, 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, April 7, 2003, 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: Hellquist, Meuers, Lehmann, Downs, Erickson, Zachman. Absent: Johnson.

APPROVAL OF MINUTES

Minutes of the March 17, 2003 Regular Council meeting and March 24 Special Meeting were presented. There being no additions or corrections noted, motion by Erickson, second by Downs, to approve the minutes as presented. All voted aye. Motion carried.

AMEND AGENDA

Mayor Lehmann called for any amendments to the agenda. There being none, motion by Zachman, second by Hellquist, to approve the agenda as presented. All voted aye. Motion carried.

CONSENT AGENDA

The following consent agenda was presented for approval. Councilmember Erickson asked to have Item E (Resolution authorizing rate increase for city arena) and item J (Change Order #2 for water tower logo) removed from the consent agenda to be placed on the regular agenda for discussion. Motion by Zachman, second by Erickson, to approve the Consent Agenda as amended. Motion carried by the following vote: Ayes: Downs, Erickson, Zachman, Lehmann, Meuers, Hellquist. Nays: None. Absent: Johnson.

- (A) Approve Gambling Permits for Eagles Auxiliary May 8th raffle and American Legion June 6-7, pull-tabs
- (B) Approve General License – Renewal of Livestock Permit
- (C) Approve Claims Submitted by Finance Officer in the amount of \$266,417.66.
- (D) Authorize Acceptance of Low Bid for Sewer Cleaning/Televising Project
- (E) (Removed to regular agenda)
- (F) Approve Resolution No. 5039 Authorizing MnDOT Agreement 84411 (Phase 4, T.H. 197 Project)
- (G) Approve Resolution No. 5040 Authorizing MnDOT Agreement 84184 (Federal Aid Projects)
- (H) Approve Resolution No. 5041 – Condemning Structures at 1018 America Ave NW
- (I) Approve Resolution No. 5042 Authorizing Transfer of Cedar Lane Street Lights to City
- (J) (Removed to regular agenda)
- (K) Approve Resolution No. 5043 Accepting Petition for Annexation (5th Street Conoco – Duane Hadrava)
- (L) Approve Purchase of a Flushing Tank Truck for Sewerline Department
- (M) Approve Lot Division for Icelandic Properties

BEMIDJI YOUTH ADVISORY COMMISSION REPORT

Councilmember Meuers reported that plans are continuing for the Youth Rally on June 7. Mayor Lehmann noted that the Youth Advisory Commission may be contacting Councilmembers to solicit participate in the Youth Rally by helping with the picnic.

BSU STUDENT SENATE REPORT

Student Senate representative Jason Swanson invited Councilmembers to an Open House on May 7th from 10:30-12:30 at the BSU Senate Office. Swanson reported that the American Indian Resource Center is ahead of schedule and could open this spring. Students are concerned regarding the proposed 15% tuition increase. BSU is looking at a

projected deficit of \$4.7 million. Current student activities include participation in the Adopt-A-Highway program, and proposing some changes to the academic calendar.

PLANNING CASE #2003-08: Filed by Trek North High School, a proposed new charter school, and the Bemidji School District's Alternative Education Center, to situate their schools in B-4 (Heavy Business District) and B-3 (Central Business District) locations, respectively. The Zoning Ordinance allows schools: primary, intermediate, and secondary, to locate in residential zones with a special use permit. However, these schools are not allowed in commercial zones. Only music, dance, and business schools, which are commercially oriented, are allowed in the B-2, B-3, and B-4 zones. Planning Commission recommended approval of a Zoning Ordinance Amendment to allow elementary, intermediate, and secondary schools with a special use permit in the B-2 (Shopping Center /Highway), B-3 (Central Business), and B-4 (Heavy Business) Districts.

Motion by Meuers, second by Hellquist, to accept the recommendation of the Planning Commission to approve a Zoning Ordinance amendment as presented above. Motion carried by the following vote: Ayes: Erickson, Hellquist, Zachman, Meuers, Lehmann, Downs. Nays: None. Absent: Johnson.

PLANNING CASE #2003-09: Filed by Trek North High School and Arch Simonson for a special use permit to situate Trek North High School in the Simonson building located at 2518 Hannah Avenue NW. Planning Commission recommended the approval with the following conditions:

1. There shall be a maximum of 160 students in grades 9 – 12 in the new Trek North High School, a charter school.
2. The school will be located in the southeast portion of the existing Simonson Center building, situated at 2518 Hannah Avenue NW.
3. The Planning Commission shall conduct annual reviews of the special use permit for at least the first two years after approval.

Motion by Erickson, second by Hellquist to accept the recommendations of the Planning Commission to approve the special use permit with three conditions as noted above. Motion carried by the following vote: Ayes: Zachman, Meuers, Lehmann, Downs, Erickson, Hellquist. Nays: None. Absent: Johnson.

PLANNING CASE #2003-10: Filed by Bemidji Independent School District and James Otterkill for a special use permit to relocate the Alternative Education Center to the former Social Security building located in the downtown area in B-3 zoned property at 520 4th Street NW. Planning Commission recommended approval with the following conditions:

1. There shall be a maximum of 100 students per day, ages 16 to adult, in the relocated Bemidji Alternative Education Center.
2. The Bemidji Alternative Education Center will relocate to the former Social Security building, situated at 520 4th Street NW.
3. The Planning Commission shall conduct annual reviews of the special use permit for at least the first two years after approval.

Motion by Zachman, second by Meuers, to approve the special use permit with three conditions as noted above. Motion carried by the following vote: Ayes: Meuers, Hellquist, Downs, Erickson, Zachman, Lehmann. Nays: None. Absent: Johnson.

PLANNING CASE #2003-11: Filed by Mike Ettesvold and Mark Froehle to rezone their two parcels totaling 6.5 acres from I-2 (Light Industrial) to R-5 (Multiple-Family Residential), situated at 306 Rako Street SW and the parcel to the west. Planning Commission recommended approval.

Motion by Downs, second by Erickson, to accept the recommendation of the Planning Commission for rezoning. Motion carried by the following vote: Ayes: Hellquist, Meuers, Lehmann, Downs, Erickson, Zachman. Nays: None. Absent: Johnson.

CONSIDERATION OF EQUIPMENT PURCHASE FOR LIBRARY (Receipt Printer)

A request for replacement of a receipt printer at the public library was presented. City Manager Minke noted that the \$340 expenditure is not budgeted in 2003 and requires a multi-year commitment of approximately \$115 per year for 3 years.

Councilmember Hellquist offered to donate a portion of his Council salary to go toward the purchase of the receipt printer for the Library. Motion by Hellquist, second by Zachman, to approve the purchase of the receipt printer from donated funds. When donated funds are received, the City will make the purchase. Councilmember Hellquist will work with the Finance Department to take care of any necessary paperwork to donate a portion of his pay for that purchase. Motion carried by the following vote: Ayes: Lehmann, Hellquist, Downs, Erickson, Zachman, Meuers. Nays: None. Absent: Johnson.

"LOST 40" ANNEXATION

In a report to the city council, City Manager Minke provided some history on this annexation including an update on communication between the City and Bemidji Township. He noted that recent communications revealed the township's desire to meet to discuss a sanitary sewer district for the area proposed for annexation and questioned whether this would be in the best interest of the city. Minke suggested that it would probably not be productive to schedule future meetings without a third-party mediator and recommended that the City retain an attorney with expertise in annexation proceedings. He suggested the services of Chris Hood from Flaherty & Hood. Minke added that the City intends to complete as much work in-house as possible. Minnesota Planning has scheduled a hearing for 9:00 a.m. on Wednesday, May 7, 2003 at Bemidji City Hall.

Motion by Erickson, second by Downs, authorizing the City Manager to retain the services of Flaherty & Hood to represent the City in the annexation process. Motion carried by the following 5-1 vote: Ayes: Hellquist, Downs, Zachman, Lehmann, Erickson. Nays: Meuers. Absent: Johnson.

PUBLIC HEARING – ASH AVENUE WATER EXTENSION PROJECT (City Project #03-02- PART I)

Pursuant to mailed and published notice, a public hearing was held to discuss the proposed extension of water main to Ash Avenue. Mayor Lehmann opened the public hearing and invited anyone present wishing to address the Council on this issue to come forward.

Robert Whelan, noted that he is currently constructing a multiple family dwelling at 2306 Ash Avenue and wanted to know if the water main extension would be complete by August 1, 2003, when he will be ready to begin renting units. City Engineer Freeberg responded that it would be close, but could probably be done. There was, however, no guaranteed completion date.

There being no further comments, the public hearing was closed.

RESOLUTION NO. 5044: A RESOLUTION ORDERING IMPROVEMENT, DESIGNATING PROJECT ENGINEER, CALLING FOR PREPARATION OF PLANS AND SPECIFICATIONS, AND AUTHORIZING ADVERTISEMENT FOR BIDS ON IMPROVEMENT (City Project #03-02 – Ash Avenue Water Main Extension) was offered by Councilmember Hellquist, who moved its adoption, and upon due second by Councilmember Erickson, was passed by the following vote: Ayes: Hellquist, Meuers, Lehmann, Zachman, Erickson, Downs. Nays: None. Absent: Johnson.

PUBLIC HEARING – 15TH STREET IMPROVEMENTS (City Project #03-02-PART II)

Pursuant to mailed and published notice, a public hearing was held to discuss the proposed water main improvements along 15th Street between Minnesota Avenue and America Avenue. Mayor Lehmann opened the public hearing and invited anyone present with an interest in this issue to come forward. No one appeared. The public hearing was closed.

RESOLUTION NO. 5045: A RESOLUTION ORDERING IMPROVEMENT, DESIGNATING PROJECT ENGINEER, CALLING FOR PREPARATION OF PLANS AND SPECIFICATIONS, AND AUTHORIZING ADVERTISEMENT FOR BIDS ON IMPROVEMENT (City Project #03-02 – Water Main Improvements 15th Street) was offered by Councilmember Erickson, who moved its adoption, and upon due second by

Councilmember Zachman, was passed by the following vote: Ayes: Erickson, Hellquist, Zachman, Meuers, Lehmann, Downs. Nays: None. Absent: Johnson.

RESOLUTION NO. 5046: A RESOLUTION ACCEPTING FEASIBILITY REPORT AND CALLING FOR A PUBLIC HEARING ON EXTENSION OF SANITARY SEWER TO CEDAR LANE was offered by Councilmember Downs, who moved its adoption, and upon due second by Councilmember Meuers, was passed by the following vote: Ayes: Zachman, Meuers, Lehmann, Downs, Erickson, Hellquist. Nays: None. Absent: Johnson.

RESOLUTION NO. 5047: A RESOLUTION ACCEPTING FEASIBILITY REPORT AND CALLING FOR A PUBLIC HEARING ON WATER & STREET IMPROVEMENTS TO THE AREA OF 26TH STREET TO 29TH STREET AND IRVINE AVENUE TO PARK AVENUE was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Hellquist, was passed by the following vote: Ayes: Meuers, Hellquist, Downs, Erickson, Zachman, Lehmann. Nays: None. Absent: Johnson.

RESOLUTION NO. 5048: A RESOLUTION ACCEPTING FEASIBILITY REPORT AND CALLING FOR A PUBLIC HEARING ON WATER & SEWER IMPROVEMENTS TO PROPERTIES SOUTH OF RAKO STREET, EAST OF LAKEVIEW DRIVE was offered by Councilmember Downs, who moved its adoption, and upon due second by Councilmember Zachman, was passed by the following vote: Ayes: Hellquist, Meuers, Lehmann, Downs, Erickson, Zachman. Nays: None. Absent: Johnson.

RESOLUTION NO. 5049: A RESOLUTION ACCEPTING FEASIBILITY REPORT AND CALLING FOR A PUBLIC HEARING ON STREET AND WATER MAIN IMPROVEMENTS ON CLAUSEN AVENUE SW (South of Rako Street SW) was offered by Councilmember Downs, who moved its adoption, and upon due second by Councilmember Zachman, was passed by the following vote: Ayes: Lehmann, Hellquist, Downs, Erickson, Zachman, Meuers. Nays: None. Absent: Johnson.

RESOLUTION FOR DETACHMENT (Steve Hill): Motion by Erickson, second by Meuers, to deny a Resolution for detachment of land owned by Steve Hill, on the finding that the land is commercial in nature and does not fit the requirements of the statute for detachment. Motion carried by the following 4-2 vote: Ayes: Hellquist, Meuers, Lehmann, Erickson. Nays: Downs, Zachman. Absent: Johnson.

FINDINGS OF FACT ON ENQUIST MATTER – PLANNING CASE #2003-04

City Attorney Felix presented a copy of the written Findings to support the City Council's March 17, 2003 decision to grant an after-the-fact ten-foot rear yard setback variance for City Planning Case #2003-04, 522 19th Street NW. Motion by Erickson, second by Hellquist to approve the Findings as presented. Motion carried by the following vote: Ayes: Downs, Erickson, Zachman, Lehmann, Meuers, Hellquist. Nays: none. Absent: Johnson.

ORDINANCES

AN ORDINANCE AMENDING THE ZONING MAP ADOPTED IN CHAPTER 13, SECTION 13.08 OF THE BEMIDJI CITY CODE (Pertaining to Planning Case #2003-05, Bob Lowth Ford) was given a second reading.

AN ORDINANCE AMENDING THE ZONING MAP ADOPTED IN CHAPTER 13, SECTION 13.08 OF THE BEMIDJI CITY CODE (Pertaining to Planning Case #2003-06, North Country Health Services) was given a second reading.

AN ORDINANCE AMENDING THE CITY OF BEMIDJI ZONING CODE (Pertaining to Special Uses in Business Districts in the City of Bemidji, Planning Case #2003-08) was given a first reading.

AN ORDINANCE AMENDING THE ZONING MAP ADOPTED IN CHAPTER 13, SECTION 13.08 OF THE BEMIDJI CITY CODE (Pertaining to Planning Case #2003-11) was given a first reading.

AN ORDINANCE ANNEXING PROPERTY ALONG DIVISION STREET NW TO THE CORPORATE LIMITS OF THE CITY OF BEMIDJI (Hadrava Property, 1808 Division Street NW) was given a first reading.

REVIEW/DISCUSS MARCH 31, 2003 PUBLIC FORUM ON BUDGET

A public forum was held on March 31st to provide information regarding a potential reduction to Local Government Aids and how the City proposes to deal with those cuts. Councilmembers expressed appreciation for public input received during the forum as well as individually, and noted that the public seems to be well informed. Councilmembers stressed that the impact on the community is going to be serious and good communication will become increasingly important.

DISCUSSION OF EARLY RETIREMENT POLICY IN RESPONSE TO PROPOSED 2004 BUDGET CUTS

During the March 12, 2003, work session, Councilmembers discussed the possibility of offering an early retirement incentive to employees as a way of reducing the work force without doing layoffs. A proposed early retirement policy was presented for Council review and discussion. The policy would allow the city to pay for retiree's health insurance coverage up to \$463.00 per month for a period not to exceed 60 months. City Manager Minke noted that there are five (5) individuals who indicated a preliminary interest in early retirement. He noted that the five positions involved would either be eliminated with duties reassigned to other positions, or combined with other positions, creating vacancies that will not be filled. Councilmember Zachman expressed the need for a clearly defined ending date, noting that he could not support anything that was not time limited. Councilmember Erickson suggested the possibility of a cash buy-out instead of medical benefits, and asked whether any of the five employees are eligible for full retirement and have chosen not to retire. She also questioned state laws regarding the ability of retirees to remain on the health care plan of the former employer. City Manager Minke responded that a cash buy-out would be taxable income for the retiree, whereas receiving pay for continued health care coverage would be non-taxable. He was unable to respond to the other questions and suggested the issue be tabled until the April 19th meeting, allowing time to gather additional information. Motion by Hellquist, second by Downs, to table the early retirement policy discussion to the April 19th meeting. All voted Aye. Motion carried.

RESOLUTION NO. 5050: A RESOLUTION AMENDING ICE RENTAL RATES FOR CITY ARENA was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Zachman, was passed by the following vote: Ayes: Lehmann, Hellquist, Downs, Erickson, Zachman, Meuers. Nays: None. Absent: Johnson.

The increased ice rental rates will be as follows: \$10.00 per hour increase effective June 1, 2003 and a second \$10.00 per hour increase in October, 2003 (on the first day of the MEA vacation).

CHANGE ORDER #2 FOR LOGO ON THE NEW WATER STORAGE TANK

Change Order #2 proposing to add a second logo on the newly constructed water tower at a cost of \$7,500 was presented for consideration. Motion by Erickson, second by Downs to deny the Change Order. Motion carried by the following vote: Ayes: Downs, Erickson, Zachman, Lehmann, Meuers, Hellquist. Nays: None. Absent: Johnson.

LEGISLATIVE UPDATE

City Manager Minke reported that various alternate proposals are being considered by the legislature to deal with the state budget shortfall. Minke and Mayor Lehmann will be in St. Paul on Wednesday, April 9th for a meeting with legislators to garner support for the proposed local sales and use tax for Bemidji parks and trails.

It was noted that April 9th is League of MN Cities Day at the Capitol. Citizens were invited to e-mail, call, or send a letter to legislators to coincide with the League Day to make a substantial impact.

Joe Vene reported that the deadline for introductions of bills is now passed and there are now eight sales and use tax bills (including Bemidji) which, at least in part, have something to do with Parks & Trails. He added that the Legislative Report on Bemidji's tax Bill is now complete and ready to be used in committee hearings at the capitol.

Vene further commented on the recent decision by the City to discontinue recreation programs in light of Local Government Aids, noting that the City has not abandoned its commitment to parks & trails capital improvements and maintenance. At the March 17th

Council meeting, Councilmembers acknowledged the school district's ability to better handle recreation programming. The City would continue to provide and maintain facilities for program use as part of the City's park system.

CITIZENS WITH BUSINESS BEFORE THIS COUNCIL – NOT ON AGENDA

Adam Steele presented a proposed compromise settlement in his legal action against the City (Adam Steele vs The City of Bemidji, Minnesota – Case No. 99-CV-1862 JMR/RLE) claiming that his first amendment rights were violated. City Attorney Felix directed Mr. Steele to present his proposal to the City's legal counsel.

UPCOMING MEETINGS

Work Session – April 14, 2003 5:30 p.m.

ADJOURN

There being no further business presented for discussion, motion by Hellquist, second by Downs, to adjourn the meeting. All voted aye. Motion carried. Meeting adjourned 8:45 p.m.

Respectfully submitted

Shirley Sherman, City Clerk