

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – March 16, 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 Monday, March 16, 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, Downs, Negard, Meuers

Staff Present: City Manager John Chatten, City Attorney Alan Felix, City Engineer Craig Gray, Finance Director Ron Eischens, City Clerk Kay Murphy

Mayor Lehmann asked for a moment of silence in remembrance of former Councilman Ralph Zachman.

AMENDMENTS TO AGENDA

Mayor Lehmann called for any amendments to the agenda. The following items were added:

- Reapportionment of Special Assessments – 1121 Mississippi Avenue
- Travel Request by Johnson to attend CGMC in St. Paul on March 26

Motion by Downs, seconded by Johnson, to approve the agenda as amended. Motion carried by unanimous vote.

MINUTES

Minutes of the March 2, 2009 regular meeting and March 9, 2009 work session and Special BEDA meeting were presented for approval. **Motion by Meuers, seconded by Waldhausen, to approve the minutes as corrected. Motion carried by unanimous vote.**

CONSENT AGENDA

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

1. Approved Claims submitted by the Finance Officer in the total amount of \$554,001.05
2. Approved miscellaneous business licenses for 2009
3. Approved 1-4 Day Temporary On-Sale Liquor License – NTC Foundation on May 1, 2009 (Night at the Races-fundraiser event)
4. Approved Fire Coverage to Three Additional Townships (Fern, Lake Hattie and Schoolcraft Townships)
5. **RESOLUTION NO. 5548:** Authorizing Cooperative Agreement No. 94197 with Minnesota Dept. of Transportation for Ridgeway Drive Signal Replacement
6. **RESOLUTION NO. 5549:** Setting the Sale of Approximately \$2,250,000 General Obligation Water and Sewer Revenue Refunding Bonds, Series 2009A
7. Approved Reapportionment of Special Assessments for 1121 Mississippi Avenue
8. Authorized Travel – CGMC on March 26 in St. Paul - Johnson

Motion carried by unanimous vote.

COMMITTEE REPORTS

Bemidji Youth Advisory Commission – Alle Bowman, BYA representative, reported on Commission activities which included planning for the June 7 event and upcoming listening lunches.

Bemidji State University Student Senate - Ryan Schwingler, Senate Co-President, reported that the voting for new senate will take place this spring and students will be voting on-line. He provided a report on other activities planned at the BSU campus.

OLD BUSINESS

BREC Painting Bid

Mayor Lehmann stated that the Council received a letter from Kraus-Anderson which clarified their bid and provided additional information for Council's consideration. In addition, Jack Pederson had submitted three letters of recommendation. Lehmann stated that there is no indication as to why the City should not accept Jarl Pederson's bid.

Hellquist asked if there was any other prevailing wage rate issues received. Lehmann stated that the only prevailing information was received at the work session.

Craig Olson (business representative with the Painting Union, representing local painters and resides at 8072 Swan Lake Road, Saginaw) stated that there were some serious violations pointed out to the Council and he believed that the Council should award the painting contract to the next lowest bidder. Furthermore, he stated that the next bidder is a local company and will impact the community.

Mayor Lehmann commented that the Council is well aware of the local impact and will take that into consideration.

Jerry Spangler, resident of Turtle River, stated that he called the State Auditor and was informed that the City placed the timeframe on the violation not the State. He further stated that he found a couple of things but was unable to get copies. He stated that Mr. Pederson should account for their low bid as something has been missed.

Lehmann stated that there is a \$122,850 gap between the Jarl Pederson's bid and the next lowest bid and they were asked by Kraus-Anderson to explain what some of the reasons might be for this discrepancy. Pederson's response was that they have successfully completed other projects where their bid was significantly lower than others. Jarl Pederson was then asked if they had reviewed their bid to determine if there are any mistakes and they responded that they had reviewed their bid and did not find any significant mistakes.

Jack Pederson, Jarl Pederson and Sons, Inc., stated that he has had no problems since the MnDOT project. He further commented that his workers will be staying in town and purchasing locally, which will impact the Bemidji community.

Discussion followed regarding prevailing wage requirements. City Attorney Felix stated that the State sets the prevailing wage which is the hourly wage based on the classification of the job. He further stated that any prevailing wage claims fall on the owner, the City, to take care.

Clinton Gronhovd, Kraus-Anderson, stated that Kraus-Anderson will review weekly pay reports to insure that prevailing wages are being paid.

Mr. Olson stated that the state investigated Jarl Pederson and Sons for prevailing wage violations and the charges are very serious. Mr. Olson stated that Mr. Pederson should be asked how they will prevent this from happening again. Mr. Olson stated that there will be labor dispute and they will be demonstrating at the site.

Felix stated that if one looked at that incident there were a number of contractors that were found to be in violation of the wage rates on a state contract including some of our local contractors that were successful bidders on the BREC project. He further stated that those issues were not brought to the Council.

Meuers stated that for the record she has voted against the other bids and for that reason will be voting against the awarding of the painting bid.

Waldhausen asked if there was a statute of limitations where the Council should not be looking at this.

Felix responded that in any bidding situation the prevailing wage issue will follow this company. However, there is no statute of limitations. Felix further stated that the Council needs to look at information that was presented today and recent projects that have been performed by Jarl Pederson and Sons, Inc.

Motion by Negard, seconded by Waldhausen, awarding the painting contract for the BREC to Jarl Pederson and Sons, Inc. in the amount of \$298,000. Motion carried with

the following vote: Ayes: Negard, Waldhausen, Johnson, Downs, Lehmann. Nays: Meuers, Hellquist.

NEW BUSINESS

Additional Construction Bids - BREC

Chattin stated that the City held back six bids for the event center hoping that the City might secure a grant from the EDA. At this point, the City cannot get the grant and staff recommends awarding the bids. He noted that the bids received on the project are only good until April 4.

Mayor Lehmann asked if awarding these bids would impact the City’s ability to receive any economic development funding.

Chattin responded that the City would no longer qualify. He stated that there was a misunderstanding between the HRDC and EDA on the funding available.

Kraus-Anderson recommended the City Council award the following bids:

<u>Work Scope</u>	<u>Contractor</u>	<u>Bid Amount</u>
7.2 Roofing	C.L. Linfoot Company	\$1,005,635.00
9.2 Tile Work	CD Tile & Stone, Inc.	\$294,000.00
23.2 Testing & Balancing	Test & Balance Associates, Inc.	\$55,000.00
31.2 Site Work	Reierson Construction, Inc.	\$3,236,974.00
32.1 Site Concrete	Donlar Company	\$1,050,000.00
32.2 Asphalt Paving	Mark Sand & Gravel	\$1,671,425.00
10 Dasher Boards (plus options #1 thru #6, #18 & #12)	Premier Rinks	\$305,020.12

Motion by Hellquist, seconded by Johnson, to award the six bids and one alternate for the Bemidji Regional Event Center as recommended by Kraus-Anderson. Motion carried with the following vote: Johnson, Downs, Waldhausen, Negard, Lehmann, Hellquist. Nays: Meuers.

Consulting Service for Securing Facilities Management Services – BREC

Chattin stated that the City has received two proposals for assistance in securing event center management services. The proposals received were from: Agile OAK (\$114,900) and CSL (\$17,000). The City has worked with CSL in the past and has confidence in their ability to successfully guide us through the process. Discussion continued regarding the scope of services.

Hellquist asked if staff could develop the RFP in-house. Chattin stated that staff could stumble through an RFP process but staff is unsure as to what to request.

Meuers stated that this is the beginning of hidden costs and will not be voting in favor of it and asked where the funding for this service was budgeted. Chattin responded that the costs will come out of the BREC contingency funds.

Meuers asked at what point is the City going to talk about the operation and maintenance of the BREC.

Chattin stated that no one on staff has built or operated an event center and it is imperative to get someone who can answer those questions. Once the City has hired someone to operate the BREC, they will help provide those answers.

Motion by Waldhausen, seconded by Johnson, approving a contract with CSL to assist with securing facilities management services for the Event Center. Motion carried with the following vote: Negard, Downs, Johnson, Waldhausen, Hellquist, Lehmann. Nays: Meuers.

Virtual Tour of BREC and South Shore

Chattin stated that the City has considered production of a virtual tour of what the facility would look like. Leo A Daly will provide an animated virtual tour for \$45,000. With the City, BSU and VisitBemidji all having a stake in the success of the BREC, all were asked to participate in the cost. Both BSU and VisitBemidji have already agreed to contribute \$15,000 each towards the cost. Chattin stated that this is just the beginning of the need for marketing the BREC and the development of the property. Future consideration of a marketing firm may also be in order. He stated that this marketing tool is needed

immediately and will benefit the City for years to come. Staff recommends a \$15,000 contribution towards the cost of the virtual tour funded with BREC contingency dollars.

Council discussed the following:

- What the virtual tour would include. Chattin stated the tour will show the entire site from east to west and the relationship between the event center and development areas and inside the event center.
- If there were maintenance or hosting costs. It was noted that the City will have the rights to the tour and can use it for marketing.
- It was noted that it is important to market the site and land for sale. Waldhausen commented that with a venue of this type, events need to be booked and the earlier the better. It is a tool that the City will need eventually whether it is to market the land or the venue.
- Funding will come from BREC contingency dollars.
- Take advantage of the three way split of the cost with BSU and VisitBemidji.

Motion by Johnson, seconded by Waldhausen, approving \$15,000 contribution towards the cost of the virtual tour funded with BREC contingency dollars. Motion carried with the following vote: Ayes: Downs, Lehmann, Waldhausen, Hellquist, Johnson, Negard. Nays: Meuers.

Demolition of the Old Mn/DOT Building

Motion by Hellquist, seconded by Meuers, approving the demolition of the Old Mn/DOT building to Sparky's Construction in the amount of \$74,146 using UDAG funds. Motion carried unanimously.

City Hall HVAC

Gray stated that the 2009 CIP includes \$400,000 for replacement of the City Hall HVAC system. The current system is nearly 30 years old and according to the project file has had problems since 1993. EAPC has completed the project plans for the replacement of the heating and cooling system. The new system will greatly increase the energy efficiency of City Hall. The new lights that will be installed are estimated to use 50% of the electricity that is currently used. The new HVAC system will operate at a 92-93% efficiency level as compared to the current system which is operating around 78%. The estimated construction cost of the project is \$365,000. The project will be funded from the Central Services Fund.

Motion by Hellquist, seconded by Negard, approving the plans and authorizing the city engineer to advertise for bids for the City Hall HVAC Replacement Project. Motion carried unanimously.

Amended City Personnel Policy

Chattin stated that the Labor Management Committee has been updating the City of Bemidji Personnel Policies since January of 2007. The Committee has reviewed, discussed and recommended changes to each section of the existing policy. He stated that it is his hope to incorporate language into the Union contracts in the future. He noted that there are not a lot of major changes but clarification and the hiring process are better defined.

Motion by Hellquist, seconded by Downs, to approve the City of Bemidji Personnel Policy as presented. Motion carried unanimously.

Resolutions for Trail & Nymore Beach

Downs requested that this item be removed from the Consent Agenda. He stated that there is already a bonding bill at the State for funding the bridge over Paul Bunyan Drive. He would like the City to focus on one issue and leave the Nymore Beach project until next year as he feels it will "muddy the waters".

Chattin stated that the trail does not mention the Paul Bunyan Trail for the \$2.5 million and it is not included in the \$357 million bonding bill which started in committee. It is being promoted as a separate bill by Senator Olson and Rep. Persell. He stated that there are concerns over the DNR construction of the new boat launch facility as it will impede access into the Nymore Beach. One of the reasons that the resolution was drafted is that DNR has done nothing on either issue. He commented that the more irons in the fire the better for funding.

Downs stated that it would have been nice to have had this information a couple of months ago when they were visiting with the representatives. He recommended that the last

paragraph of the Paul Bunyan Trail resolution be revised to reflect the bridge over Paul Bunyan Drive.

Felix commented that the Council should keep all the moving pieces in front of the legislators so they don't forget it, i.e., the bridge component and now we have the improvement pieces. DNR has stated in their discussions with the City that the legislators will decide how to dole out the pieces.

RESOLUTION NO. 5550: Supporting a Request to the State Legislature to Fund the Design and Construction of Paul Bunyan State Trail along the South Shore of Lake Bemidji, including a Trail Bridge, was offered by Councilmember Meuers, who moved its adoption, and upon due second by Councilmember Downs was passed by unanimous vote.

No action was taken on the Resolution Supporting a Request to the State Legislature to Fund the Design and Construction of Nymore Beach Boat Access on Lake Bemidji.

ORDINANCES

Street Light Utility Fee

Eischens commented how the City got to this point. The Governor announced the LGA cuts for Bemidji for 2009 and 2010 totaling close to \$1 million. At this point staff met with the Manager to develop budget reductions and suggestions. Staff's goal in the presentation was two-fold: 1) to present budget recommendations that minimized impact of services to the citizens and 2) to maintain staff current levels. Eischens further stated that staff is recommending that vacant property not be assessed the street light fee as it is difficult to defend. Staff recommends that the fee be effective July 1, 2009 which coincides with the stormwater fee and that the street light utility fee be collected with County taxes and the fee would be charged to non-taxable property. Eischens stated that the alternative to not implement the fee is to increase property taxes, which is currently not an option due to state imposed levy limits, or the cut services or staff.

Johnson stated that levy limits could get lifted and perhaps the Council should wait and see. He commented that turning off every other light affects public safety.

Waldhausen stated that adding an extra fee to the citizens is a concern. He asked if the fee could go away in two years, as he does not want to see it as a permanent revenue stream for the City.

Eischens stated that the fee schedule is reviewed by the Council annually and the fee could be removed or reduced at that time.

Council discussed the following:

- Potential referendum question on the ballot;
- Pass on the cost of maintenance of street lights to the consumers by the commercial property; and
- Staff take another hard look for potential budget cuts before adding another tax or fee.

Pursuant to published notice, a Public Hearing was held to receive input regarding Amending Chapter 26, Adding Article VIII to the Bemidji City Code Pertaining to the Operation and Maintenance of the Street Lighting System in the City of Bemidji. Mayor Lehmann opened the Public Hearing at 8:54 p.m.

Elbert Jernigan, 1801 Irvine Avenue NW, commented that the lights are not public safety as they are located only at the intersections.

Florence Tesar, 725 33rd Street NE, complained about the lighting at Irvine and 30th Street.

Marvin Olson, 732 Vista North, stated that he pays for his own lights in their development and is opposed to the street light utility fee.

Peggy Mostad, 617 Lincoln Avenue SE, suggested that lights be turned off in her alley and commented that fees and taxes do not go away once they are implemented.

Karen Kimborough, 2902 Bixby Avenue NE, is opposed to the street light fee. She stated that lights do not provide public safety and creates light pollution that affects patterns of

animals and impacts the environment. She lives on disability and does not need any more taxes. Every other light could be turned off to save money.

John Henningsgaard, 1520 Bixby Avenue NE, agreed with the comments and question if the lights are really keeping his neighborhood safe. Because of that light he does not enjoy the sky. When we live in town, we don't connect with the sky and heaven.

Gloria Garnet, 215 Richards Avenue NE, noted that street lights are on when they are not needed.

John Seltzer, 4139 Blue Mayflower Road (outside city limits), stated that this is a service that the city provides as part of the citizens' property taxes. He commented that just because other cities are doing this does not mean that Bemidji has to do the same.

Howard Baxter, 1312 Minnesota Avenue NW, stated that in approximately 1989 Otter Tail Power installed street lights at no cost but was unable to find anything to support that claim. Furthermore, the night a light was installed in his alley his neighbor's car was vandalized. He suggested that if an individual wants a light, they should pay for it.

Karen Kimborough commented that everyone is cutting back but she believes it is time that the City consider shutting the street lights off.

Felix stated that public safety is not just property protection but lighted intersections are important for the traveling public. However, he hoped that there is property protection as well. The Council can charge a street light fee if it chooses to do so. He stated that the cost of installing lights can come from a grant but maintenance of the lights does not.

Mayor Lehmann closed the Public Hearing at 9:22 p.m.

- Second Reading of an Ordinance Amending Chapter 26, Adding Article VIII to the Bemidji City Code Pertaining to the Operation and Maintenance of the Street Lighting System in the City of Bemidji

Pursuant to published notice, a Public Hearing was held to receive input regarding Amending the Bemidji City Code, Adopting an Amended 2009 Fee Schedule (Adding Street Light Utility Fee). Mayor Lehmann opened the Public Hearing at 9:24 p.m., hearing no comments the public hearing was closed.

- Second Reading an Ordinance Amending the Bemidji City Code, Adopting an Amended 2009 Fee Schedule (Adding Street Light Utility Fee)

EVENT CENTER UPDATE

Clinton Gronhovd, Kraus-Anderson, stated that the work has begun on the facility. Mid-April concrete work will begin. Mayor Lehmann stated that the Governor will not be attending the groundbreaking which is very disappointing.

CITIZEN NOT ON AGENDA

No one appeared.

UPCOMING MEETINGS

- Monday, March 16 7:00 p.m. Council Meeting
- Monday, March 23 5:30 p.m. Work Session – Construction Issues w/ Kraus-Anderson
- Monday, April 6 6:00 p.m. Council Picture
- Monday, April 6 7:00 p.m. Council Meeting
- Monday, April 13 5:30 p.m. Work Session – Year 2008 Financial Review

COUNCIL/STAFF REPORT

- Lehmann asked about converting to LED lights for street lights. Gray was not sure how this applies and will follow up.
- Meuers commented about setting goals for City Manager. Consensus of the Council was to add to the Work Session on March 23.
- Hellquist asked that Kraus-Anderson provide a noise shield at the BREC site and maintain reasonable work hours to keep the noise at a minimum for the neighborhood. Hellquist stated that he attended the State of Minnesota Local Board of Appeals training and both the Mayor and he are certified.

- Negard commented that there was a meeting with the Nymore Neighborhood regarding the Event Center project. Kraus-Anderson provided an overview of what can be expected. Concerns from the citizens were expressed regarding the trucks, however, no clear cut answer were given at that time.
- Waldhausen attended the Heritage Preservation Commission meeting. They working to receive CLG status in order to get grant funding.

ADJOURN

There being no further business, motion by Waldhausen, seconded by Johnson, to adjourn the meeting. Motion carried. Meeting adjourned at 9:36 p.m.

Respectfully submitted,



Kay M. Murphy
City Clerk