

# **CITY COUNCIL PROCEEDINGS**

## **BEMIDJI, MINNESOTA**

### **May 3, 2004**

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, May 3, 2004, 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, Zachman, Lehmann, Meuers, Hellquist, Johnson. Absent: Johnson.

Mayor Lehmann called for amendments to the agenda. There being no amendments, motion by Erickson, second by Downs, to approve the agenda as amended. Motion carried by unanimous vote.

#### **APPROVAL OF MINUTES**

Minutes of the April 19, 2004 Regular Council meeting were presented for approval. Motion by Erickson, second by Hellquist, to approve the minutes as presented. Motion carried by unanimous vote.

#### **CONSENT AGENDA**

The following consent agenda items were presented for approval. Motion by Meuers, second by Zachman, to approve the items listed on the Consent Agenda as follows. Motion carried by unanimous vote.

- A. *Approved eight (8) pages of claims in the total amount of \$970,224.37.*
- B. *Awarded the bid for Storm Sewer Cleaning to Veit Environmental Inc.*
- C. *Awarded the contract for paving Parking Lot #6 to J. D. Hanson & Sons Inc.*
- D. *Approved **Resolution No. 5146** Accepting Feasibility Report and Calling for a public hearing on City Project #02-09*

#### **BEMIDJI YOUTH ADVISORY COMMITTEE REPORT**

Anne Hegge noted that committee activities are primarily focused on the June 7<sup>th</sup> Youth Day activities. A written request was submitted for use of Library Park and city streets for a variety of activities. City staff is processing that request and will require some liability insurance coverage for the skateboarding event.

#### **BSU STUDENT SENATE REPORT**

Jason Swanson introduced Jake Odegaard, his successor as BSU Student Senate representative to the City Council. Jason announced his acceptance at the South Dakota School of Law and expressed appreciation to the City Council for the experience of working with them during the past two years. May 14<sup>th</sup> is the last day of classes at BSU for this year.

#### **APPROVE FARE INCREASE FOR BEMIDJI CAB CO**

Bemidji Cab Company presented a request to increase the mileage fare from \$.15 per mile to \$.25 per mile, noting the rising cost of fuel, vehicle maintenance and insurance. City Council is authorized by City Code 6.35, Subd. 6, to approve fare increases as necessary.

**RESOLUTION NO. 5147:** A RESOLUTION AUTHORIZING A TAXICAB FARE INCREASE was offered by Councilmember Zachman, who moved its adoption, and upon due second by Councilmember Meuers, was passed by unanimous vote.

#### **2004 JUVENILE ACCOUNTABILITY BLOCK GRANT (JABG) APPLICATION**

Evergreen house presented a request for city support in their efforts to apply for a grant from Minnesota Department of Public Safety to fund an adolescent youth transition program for youth with chemical dependency. The city would be required to sponsor the grant and serve as the fiscal agent for the one-year. City Manager Minke recommended approval with the following conditions:

1. Evergreen House pays the city a two percent (2%) administration fee.

2. Evergreen enters into an agreement with the city, which obligates them to operate the program in accordance the grant.
3. The city and Evergreen agree on a plan for Miller, McDonald, Erickson, and Moller to provide periodic review of expenditures to ensure compliance with the grant requirements.

**RESOLUTION NO. 5148:** A RESOLUTION AUTHORIZING SUBMISSION OF APPLICATION FOR COMPETITIVE GRANT FUNDING FOR PROJECTS TO COMBAT DISPROPORTIONATE MINORITY CONTACT (DMC) (2004 Juvenile Accountability Block Grant Program) was offered by Councilmember Downs, who moved its adoption, and upon due second by Councilmember Erickson, was passed by unanimous vote.

**AUTHORIZE PURCHASE OF VEHICLE FOR DIRECTOR OF PUBLIC SAFETY (Tabled at the April 19<sup>th</sup> meeting)**

This issue was tabled at the April 19<sup>th</sup> meeting to allow further research regarding the vehicle proposed for use by the Director of Public Safety. Since that meeting, Council members received additional information from the Director of Public Safety supporting the need for this vehicle. Motion by Erickson, second by Zachman, to approve the purchase of a Chevrolet Tahoe from the state contract as requested. Motion carried by unanimous vote.

**AMEND PURCHASE OFFER FOR RAILROAD CORRIDOR FROM THE MISSISSIPPI RIVER TO THE "WYE" BASED ON UPDATED APPRAISAL**

As a result of negotiations with the railroad, the City requested an updated appraisal of the corridor being considered for trail development. City Attorney Felix noted that the original appraised value was \$256,000 (which did not address all of the property now subject of the sale.) The updated appraised value is \$400,000. A copy of the appraisal was submitted for Council review and discussion. Felix asked the Council to authorize staff to amend the City's purchase offer and allow the staff to negotiate a final purchase agreement with the railroad. He reminded the Council that the City needs to close on the purchase of the corridor before June 30, 2004 to take advantage of the \$50,000 DNR local trail grant.

Motion by Downs, second by Meuers, to authorize city staff to amend the City's purchase offer and allow the staff to negotiate a final purchase agreement with the railroad. Motion carried by unanimous vote.

**APPROVE CODY COMPUTER SOFTWARE AGREEMENT RATIFICATION FOR LEC**

As part of the new Law Enforcement Center, the Police Department and Sheriff's Office together requested professional software services developed by CODY Computer Services. The cost of implementing the one of a kind comprehensive, integrated programming and software service, including conversion of all existing data in both law enforcement agencies into one shared system, is \$210,142. The initial contract cost is proposed to be paid out of the new LEC building construction fund (administered by the County). Annual updates and service fees (estimated to be \$30,000) will be shared between the City and County and processed through the joint LEC Commission.

Motion by Downs, second by Erickson, to authorize the Mayor to execute the CODY Software License Agreement on behalf of the City. Motion carried by unanimous vote.

**APPROVE CONTRACT WITH PRO-WEST TO DO GIS BASE MAPPING**

Four proposals were received as follows in response to a request to create a parcel-based map for the City of Bemidji. The parcel map will provide the basis for accurate data used in the location, inventory and maintenance of the City's infrastructure and help plan for future development.

		<u>Estimated Completion Date</u>
Pro-West & Associates	\$41,327.00	October 12, 2004
Advanced Engineering	\$58,266.00	December 31, 2004
Widseth Smith & Nolting	\$85,076.01	50 weeks (Approx. April 15, 2005)
KBM	\$87,992.00	November 1, 2004

Staff recommended acceptance of the low quote from Pro-West. Funding for this project is available as follows: \$30,000 previously set aside and \$11,327 from utility funds.

Motion by Erickson, second by Hellquist, authorizing an agreement with Pro-West & Associates to provide parcel-based mapping for the City. Motion carried by unanimous vote.

### **REQUEST FOR ADVANCE ENCUMBRANCE OF MUNICIPAL STATE AID FUNDS**

City Engineer Freeberg noted that in 2004 the City will need \$500,000 in advanced funds to allow the City to draw down all eligible MSA funds by the end of the year for current projects. Freeberg requested Council approval by resolution to request the advanced MSA funds.

**RESOLUTION NO. 5149** : A RESOLUTION REQUESTING ADVANCE ENCUMBRANCE OF MUNICIPAL STATE AID FUNDS was offered by Councilmember Hellquist, who moved its adoption, and upon due second by Councilmember Zachman, was passed by unanimous vote.

### **ORDINANCE**

Pursuant to posted notice, a public hearing was held on AN ORDINANCE AMENDING THE ZONING MAP ADOPTED IN CHAPTER 13, SECTION 13.08 OF THE BEMIDJI CITY CODE (Pertaining to Planning Case #2004-10, Mark Sand & Gravel). Mayor Lehmann opened the public hearing and requested comments from those present regarding this rezoning request.

Sara Hayden, Nymore area, expressed opposition to an asphalt plant being operated at this location. She noted pollution levels, adverse impact, suggested an Environmental Assessment and requested community involvement in the decision making process.

Mayor Lehmann reminded those present that the issue to be decided at this meeting is whether the parcel in question should be rezoned from I-1 (Industrial Park) to I-3 (Heavy Industry). He noted that an asphalt plant requires approval of a Conditional Use Permit in the I-3 zone, and the Council will consider such request at the June 7<sup>th</sup> meeting.

Robert Chastain, Nymore area, also expressed opposition to an asphalt plant being operated at this location. He noted the environmental impact, pollution from trucks, wear & tear on roads, and clean up issues.

Howard Baxter was opposed to an asphalt plant and questioned validity of the EPA tests and chemical additives to clean the air. He also expressed concerns regarding noise levels and health risks and noted that a major aquifer runs beneath the proposed location.

Rich Mayer, Irvingboro, spoke in opposition to the rezoning, noting that development of parks, trails, malls, and residential areas are based on an assumption that the industrial park is zoned a certain way. He suggested that the property owner is proposing a major zoning change, which is not compatible with the surrounding development.

Mark, Wangberg, 221 Irving Beach, expressed opposition to an asphalt plant, noting the exposure to fumes and the impact on human health.

Carol Winans, 1211 Oak Hills Road SE, expressed opposition to the I-3 rezoning, and noted concerns regarding noise levels.

Onan Markeson, 1502 Calihan Avenue, feels this zoning amendment would be a change in direction for the City from the current vision. He noted that Bemidji has many strengths but in his opinion, heavy industrial is not one of those strengths.

Mark Paulson, 3518 Kaymar Ct SE, expressed opposition to the rezoning from I-1 to I-3, noting that the I-3 zone would not be compatible with the surrounding area which is currently residential with some future commercial development.

Gene Lund, 3519 Kaymar Ct SE, echoed the concerns expressed earlier by others in opposition to an asphalt plant. He also noted personal allergies to petroleum products.

Thad Bowman, expressed opposition to heavy industry in an incorporated area.

Wm. Hartwell, Rt. 1, Bx. 142, expressed concerns regarding environmental impact and asked what obligations the property owner has to restore the land after it has been used for a concrete or asphalt plant.

Audrey Thayer, resident of the Nymore area, expressed appreciation to the residents who appeared to speak regarding this issue. Due to the neighborhood opposition, she suggested that an environmental impact statement be done prior to a decision on the asphalt plant. She also noted concerns about noise, odor, impact on human health, and impact on water quality.

Wes Abbott, 3415 Kaymar Ct SE, expressed neither support nor opposition but acknowledged the existence of asphalt and concrete plants in the Minneapolis/St. Paul metro area. He suggested that another plant in the Bemidji area would provide some needed competition for a product that is widely used in the area.

Mark Thorson, prospective developer of the industrial park parcel in question, noted that most of the discussion this evening has been about an asphalt plant. He understood that tonight the Council would be considering a rezoning change for some Industrial Park property from I-1 to I-3 and that the hearing for the Conditional Use Permit (specifically for an asphalt plant) would be on June 7<sup>th</sup>. He noted that the proposed rezoning from I-1 to I-3 would allow him to have a redi-mix plant at the proposed location. He suggested that a redi-mix plant is not heavy industry and that the decibel levels are lower than heavy traffic on the adjacent highway. He expressed concerns regarding considerable misinformation presented tonight, and noted that construction is ongoing throughout the community and product is going to be produced. The question is whether one company or two will produce the product.

Councilmember Erickson noted that the rezoning from I-1 to I-3 opens the field for a broader use of the Industrial Park and at this time the Council is considering whether it wants to open the field for redi-mix and other types of heavy industrial development.

Bill Batchelder, Board member of the Bemidji Development Corporation, noted that as a firefighter he has trained for various hazards of heavy industry, but noted that the Fire Department has never trained for an emergency at an asphalt plant or redi-mix plant because they are not as dangerous as other industries existing in our community. He assured the Council that the Bemidji Development Corporation does not want polluting industries in our community and noted that there are asphalt plants in many communities.

Clint Brustle noted that a packet of information regarding the Mark Sand & Gravel proposed use of the parcel was presented to the Planning Commission. That information was to be presented to the Council for the June 7<sup>th</sup> hearing, but could be made available to the Council for review at this time. He felt that the information provided would address many of the concerns raised at this meeting.

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

Motion by Downs, second by Meuers, to deny the request for rezoning. Motion failed on the following tie vote: Ayes: Downs, Erickson, Meuers. Nays: Zachman, Lehmann, Hellquist. Absent: Johnson.

Motion by Hellquist, second by Zachman, to table the rezoning request to the May 17<sup>th</sup> meeting to allow time to review the information provided by Mark Sand & Gravel. Motion carried by the following 4-2 vote: Ayes: Hellquist, Lehmann, Zachman, Erickson. Nays: Meuers, Downs. Absent: Johnson.

### **ORDINANCE REGULATING THE SALE OF PERMITTED FIREWORKS**

Pursuant to published notice, a public hearing was held on an ordinance relating to the sale of permitted fireworks in city limits. Mayor Lehmann opened the public hearing and invited anyone present to address this issue. No one appeared. The public hearing was closed.

**ORDINANCE NO. 371, 2<sup>ND</sup> SERIES:** AN ORDINANCE AMENDING CHAPTER 6 OF THE BEMIDJI CITY CODE RELATING TO THE SALE OF PERMITTED FIREWORKS was given a final reading and passed by the following vote: Ayes: Zachman, Meuers, Lehmann, Downs, Erickson, Hellquist. Nays: None. Absent: Johnson.

### **ORDINANCE CORRECTING WARD BOUNDARIES**

An ordinance amending Ordinance 323, 2<sup>nd</sup> Series (Ward Boundaries) was presented for Council review and discussion. City Clerk Sherman noted that during a recent review of the City's ward boundaries, the GIS Coordinator noted several errors in the meets and bounds descriptions. The proposed ordinance will correct those errors.

There being no discussion by the Council, the ordinance was given a first reading.

### **CHARTER AMENDMENTS**

It was noted that the council must adopt Charter amendments by an affirmative vote of all its members of the Council after a public hearing. Given the fact that Councilmember Johnson is absent at tonight's meeting, Mayor Lehmann suggested that the public hearing be held tonight on each of the ordinances proposing Charter amendments as noted in the publication, but the final reading of those ordinances be postponed until such time as the entire Council is present for the vote. Motion by Zachman, second by Downs, to proceed with the public hearings and postpone the final reading on each of the Charter amendment ordinances until such time as the entire Council is present for the vote. Motion carried by unanimous vote.

Pursuant to published notice, a public hearing was held to consider an amendment to Section 2.08 of the Bemidji Council-Manager Charter relating to INVESTIGATION OF CITY AFFAIRS. The amendment would add the word "certified" to the following sentence, "The council shall provide for an audit of the city's accounts at least once a year by the state department in charge of such work or by a 'certified' public accountant". Mayor Lehmann opened the public hearing and invited anyone present to comment on the proposed amendment. No one appeared. The public hearing was closed.

Pursuant to published notice, a public hearing was held to consider an amendment to Section 2.09 of the Bemidji Council-Manager Charter relating to INTERFERENCE WITH ADMINISTRATION. The amendment would clarify the current wording "Neither the council nor any of its members shall..." by deleting "~~nor any of its members~~" and adding the following "Mayor nor any other member of the city", so that the amended text will read "Neither the Mayor nor any other member of the city council shall ...." Mayor Lehmann opened the public hearing and invited anyone present to comment on the proposed amendment. No one appeared. The public hearing was closed.

Pursuant to published notice, a public hearing was held to consider an amendment to Section 4.04 of the Bemidji Council-Manager Charter relating to FILING FOR OFFICE. The amendment is in keeping with State Statutes reflecting the following change: "Not earlier than 70 days and not less than 56 days before the first Tuesday after the second Monday in September preceding the municipal general election, ~~six weeks nor later than four weeks before the date set for a primary election.~~" Mayor Lehmann opened the public hearing and invited anyone present to comment on the proposed amendment. No one appeared. The public hearing was closed.

Pursuant to published notice, a public hearing was held to consider an amendment to Section 6.05 of the Bemidji Council-Manager Charter relating to PURCHASES AND CONTRACTS. The proposed amendment increases the amount of city purchases or contracts the City Manager is authorized to approve from \$5,000 to \$15,000. Mayor Lehmann opened the public hearing and invited anyone present to comment on the proposed amendment. No one appeared. The public hearing was closed.

Pursuant to published notice, a public hearing was held to consider an amendment to Section 12.14 of the Bemidji Council-Manager Charter. relating to AMENDING CHARTER. The proposed amendment reads as follows: This charter may be amended or revised in any manner provided by law and Minnesota Statute 410.12. Mayor Lehmann opened the public hearing and invited anyone present to comment on the proposed amendment. No one appeared. The public hearing was closed

### **UPCOMING MEETINGS**

Tuesday, May 4, 2004 – 7:00 p.m. Board of Review

### **ADJOURN**

There being no further business presented for discussion, motion by Downs, second by Meuers, to adjourn the meeting. Motion carried by unanimous vote. Meeting adjourned 9:45 pm.

Respectfully submitted

Shirley J. Sherman, City Clerk