

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

January 5, 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, January 5, 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. Erickson, Hellquist, Zachman, Meuers, Lehmann, Downs, Johnson. Absent: None.

Lehmann called for any amendments to the agenda. There being none, motion by Downs, second by Erickson, to approve the agenda as presented. Motion carried by unanimous vote.

APPROVAL OF MINUTES

Minutes of the December 15, 2003, Regular Council meeting were presented. There being no additions or corrections noted, motion by Meuers, second by Hellquist, to approve the minutes as presented. All voted aye. Motion carried.

CONSENT AGENDA

The consent agenda was presented for approval. Motion by Hellquist, second by Downs, to approve the Consent Agenda as presented. Motion carried by the following vote: Ayes: Hellquist, Meuers, Lehmann, Johnson, Downs, Erickson, Zachman. Nays: None. Absent: None.

- A. Approved Designation of Jerry Downs as Mayor Pro-tem*
- B. Approved Designation of The Pioneer Newspaper as the Official Newspaper of Publication*
- C. Approved Committee Appointments as recommended*
- D. Approved General Business Licenses/Permits*
- E. Approved Beer Licenses*
- F. **RESOLUTION NO. 5113:** Approving an Application from Confidence Learning Center for a Gambling Premises Permit for Tuesday night bingo at the Eagles Club.*
- G. **RESOLUTION NO. 5114:** Approving an Application from the Bemidji Baseball Association for a Gambling Premises Permit to have pull-tabs at Breakers Bar & Grill*
- H. **RESOLUTION NO. 5115:** Approving an Application from the Bemidji Baseball Association for a Gambling Premises Permit to have pull-tabs at Corner Bar*
- I. **RESOLUTION NO. 5116:** Approving an Application from Bemidji Baseball Association for a Gambling Premises Permit to have pull-tabs at Elks Lodge #1052)*
- J. Approved Application for Exempt Permit from Junior Achievement to hold a raffle on April 4, 2004*
- K. Approved ten (10) pages of Claims Submitted by Finance Officer in the total amount of \$973,901.20*
- L. Approved 2004 Janitorial Services Agreement with SeaHen Janitorial*

BEMIDJI YOUTH ADVISORY COMMITTEE REPORT

Georgia Welle expressed appreciation to the City Council for their support during 2003. Recent activities include a 1st annual "Sledtacular", a BYAC sponsored event held on a Friday night during the holidays and planning for a community forum to be held in early February. The committee is looking forward to a "Bemidji Leads" presentation by Dave Hengel at an upcoming BYAC meeting, and the "Listening Lunches" continue to be a hit with high school students.

BSU STUDENT SENATE REPORT

No report.

PUBLIC HEARING – Annexation of Property Along Jefferson Avenue SE (Leisure Time Land Co)

Pursuant to mailed and published notice, copy of which was placed on file in the City Clerk's Office, a public hearing was held to consider annexation of a 75' wide parcel of land located along Jefferson Avenue SW. Mayor Lehmann noted that the City had received a written objection to the proposed annexation from Bemidji Township.

Mayor Lehmann opened the public hearing and invited those present to address the issue.

Paul MacIntyre, 300 Jefferson Avenue SW, spoke in favor of the proposed annexation and inquired about further annexation of properties along the West Side of Jefferson.

Mark Paulson, Bemidji Town Board Vice-Chairperson, expressed opposition to the annexation, noting that the current petition is approved for annexation it will isolate three parcels in the same area along Jefferson Avenue remaining in the township. He suggested there is no good reason for the annexation – no failing septic, no immediate need for city water, access to the parcel lying west of this parcel (also owned by the petitioner) is available from 5th Street as well as a narrow alleyway off of Jefferson. On behalf of the township, he requested that the City Council deny the annexation at this time until such time as the City and Townships can reach an orderly annexation agreement.

John Zacher, representing LeisureTime Land Company, noted that they also own a larger parcel located within city limits (approximately 11-acres) - lying west Jefferson Avenue, adjacent to the parcel being petitioned for annexation. They intend to subdivide the larger parcel and sell it for development. LeisureTime wants to annex this .28-acre parcel to the city for the purpose of constructing a roadway to access the larger parcel. Water and sewer are stubbed to the parcel along Jefferson, which will provide access to utilities for the southern portion. The northern portion will access utilities from 5th Street. Zacher noted that they are in the process of preparing the plat now and they want to have the entire plat, including the roadway, under one jurisdiction. He said they would not be able to hold off until the Township and City could reach an agreement, which may or may not happen in 2004. Zacher further noted that Mr. Paulson's reference to the isolation of several parcels of land along Jefferson Avenue already exists. This annexation will not change that.

City Attorney Felix noted that Mr. Zacher has been working with the City during the past year to plat his larger parcel located in City limits. He explained that the larger parcel actually has a 30-foot strip, which abuts Jefferson Avenue. When Zacher decided how he wanted to divide the parcel, it was decided that the only access to the southern portion would be the 30-foot strip, which is inadequate for a roadway. By annexing the 75-foot parcel and attaching it to the 30-foot strip, he will have adequate land to construct a street to city standards.

Brian Grund of Freeberg & Grund Engineering, spoke in support of the annexation, noting that the annexation will resolve an issue that has been in the planning for a number of months in terms of how to develop the 11-acre parcel and how to provide adequate access. He felt the annexation of this .28-acre of land was getting caught up in a much bigger issue.

Some discussion followed regarding the timeline for an orderly annexation agreement between the City and Township. Lehmann noted that discussions are ongoing but nothing has been reduced to writing at this time. It was noted that the month of May had been a target date, but there was some speculation that May is not realistic. Johnson noted that during joint meetings with the townships, it was made clear from the beginning that the City would not put a moratorium on annexations, but will continue to consider annexations by petition. Meuers spoke in favor of managed growth and the need for the city and townships to work together on those issues.

Paulson said the township is interested in working with the city to develop an orderly annexation agreement for the future, and while working on the agreement, the township would not stand in the way if a property owner petitions for annexation due to the need for utilities. He felt the township had not been fully aware of the reason for this annexation.

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

ORDINANCE NO. 359, 2ND SERIES: AN ORDINANCE ANNEXING PROPERTY ALONG JEFFERSON AVENUE SE TO THE CORPORATE LIMITS OF THE CITY OF BEMIDJI (Leisure Time Co.) was given a third reading and passed by the following vote: Ayes: Erickson, Hellquist, Zachman, Meuers, Lehmann, Downs, Johnson. Nays: None. Absent: None.

RESOLUTION NO. 5117: A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF BEMIDJI TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF BONDS TO BE ISSUED BY THE CITY OF BEMIDJI (SALE OF BONDS) was offered by Councilmember Zachman, who moved its adoption, and upon due second by Meuers, was passed by the following vote: Ayes: Zachman, Meuers, Lehmann, Downs, Johnson, Erickson, Hellquist. Nays: None. Absent: None.

RESOLUTION NO. 5118: A RESOLUTION FORMALLY INDICATING THE CITY'S INTENT TO ADOPT A FUTURE RESOLUTION ACCEPTING THE COSTS FOR THE CITY UTILITY PORTION OF THE 2007 RECONSTRUCTION OF TRUNK HIGHWAY 197 (Bemidji Avenue) FROM THE JUNCTION OF THIRD (3RD) STREET TO THE JUNCTION OF TWENTY-THIRD (23RD) STREET was offered by Councilmember Hellquist, who moved its adoption, and upon due second by Councilmember Downs, was passed by the following vote: Ayes: Meuers, Hellquist, Johnson, Downs, Erickson, Zachman, Lehmann. Nays: None. Absent: None.

RESOLUTION NO. 5119: A RESOLUTION REQUESTING MN/DOT TO FORMALLY INDICATE ITS INTENT TO PAY THEIR SHARE OF THE COSTS FOR STORM SEWER IMPROVEMENT AS PART OF THE 2007 RECONSTRUCTION OF T.H. 197 FROM THE JUNCTION OF THIRD (3RD) STREET TO TWENTY-THIRD (23RD) STREET was offered by Councilmember Hellquist, who moved its adoption, and upon due second by Councilmember Downs, was passed by the following vote: Ayes: Meuers, Hellquist, Johnson, Downs, Erickson, Zachman, Lehmann. Nays: None. Absent: None:

APPLICATION BY WAL-MART STORES INC TO OPERATE A CURRENCY EXCHANGE COMPANY AT 2025 PAUL BUNYAN DRIVE NW

At the December 15th meeting a public hearing was held on the application by Wal-Mart Stores to operate a currency exchange at 2025 Paul Bunyan Drive. City Attorney Felix defined a currency exchange as an entity that cashes checks, drafts, money orders or travelers checks for a fee, but not a bank. A representative from First Federal Bank of Bemidji expressed concerns that a currency exchange would create competition for their banking business, which is located inside the Wal-Mart store. Council members had some questions regarding the application and agreed to delay a decision until this meeting and invited written comment from First Federal Bank expressing their concerns.

City Attorney Felix provided a copy of Minnesota Statute Section 53A.02 regarding currency exchanges and highlighted the provisions, which are most relevant to the consideration of the Wal-Mart application. A full copy of the application was also provided. Felix highlighted the Business Plan language in Attachment #4 of the application, noting that Wal-Mart's goal is to be able to cash payroll checks at the till for their customers and to charge a fee in accordance with Minnesota Statutes. According to the Commissioner of Commerce, there are no other currency exchanges licensed in the City of Bemidji. Felix noted that based on his review of the information, he found nothing in the application that would give cause for concern.

Downs asked if this would give Wal-Mart an unfair advantage over other stores in the area. Felix explained that without a currency exchange license, businesses are limited as to how much they can charge to cash checks. This license would allow Wal-Mart to charge a higher fee. Zachman reported that at least one bank and three businesses in the Hwy. 2 West area were not in favor of granting the license. They expressed an unfair advantage noting the bulk of the money from the cashed check would then be spent at Wal-Mart.

Hellquist spoke in favor of the license, noting that his business does a large payroll and a significant number of people experience problems in cashing their checks because they do not use typical banking systems. He felt this would be a benefit for those employees.

Erickson asked about typical check cashing fees charged by banks. It was noted that First Federal charges \$5.00 for checks up to \$500.00 and 1% for anything over \$500.00.

Felix noted that if the council denies the application, Wal-Mart is entitled to a second hearing before the council in regard to the reason for denial.

Downs suggested the reason would be an unfair advantage. Erickson noted that the fees they are proposing to charge are less than the legal limit.

Motion by Erickson, second by Zachman, to deny the application based on an unfair advantage. Motion carried by the following vote: Ayes: Meuers, Lehmann, Johnson, Downs, Erickson, Zachman. Nays: Hellquist. Absent: None.

CONSIDERATION OF CAPITAL PURCHASES (Copy Machine & Squad Car)

Copy Machine

Minke noted that a new copier was removed from the 2003 budget due to a reduction in Local Government Aids. Recently the oldest copier in the Engineering Department broke down and is too costly to repair. He noted that the 2003 Administration Department budget is under spent, and in light of the need for a replacement copier, he recommended the purchase of a copier. Erickson expressed concerns about using General Fund dollars to purchase this equipment and not Capital Equipment funds. She supported the purchase but felt this should be done in place of something else in the Capital Equipment budget until the end of 2004. Minke suggested that this is an opportunity to take advantage of the thriftiness of City departments to replace a piece of equipment that unexpectedly broke down. He also noted that this would be less disruptive to the Capital Equipment budget, which is fairly lean. Zachman asked how much will actually be carried over into 2004. Minke responded that the General Fund will probably be in the neighborhood of 9% to the positive.

Four bids were received for a replacement copier. Staff recommended acceptance of the low bid from Stringer Business Systems in the amount of \$8,151.00. Motion by Zachman, second by Johnson, to authorize purchase of a copier from Stringer Business Products in the amount of \$8,151.00 plus tax. Motion carried by the following vote: Ayes: Hellquist, Downs, Johnson, Meuers, Zachman, Lehmann, Erickson. Nays: None. Absent: None.

Squad Cars

Minke noted that the City recently added three police officers through grants (TSA and Auto Theft funds), but that also puts us in the position of needing another squad car. He recommended the purchase of a Dodge Intrepid squad car available on the state bid for approximately \$16,000.00 plus radio, lights, etc. Other vehicles such as the Crown Victoria are also available, but are more expensive. Erickson restated her opposition to using General Fund to purchase the squad cars.

Motion by Downs, second by Erickson, to authorize the purchase of a squad car through the state bid in the approximate amount of \$16,000 plus radio, lights, etc. Motion carried by the following vote: Ayes: Hellquist, Downs, Johnson, Meuers, Zachman, Lehmann, Erickson. Nays: None. Absent: None.

DISCUSSION OF 2004 CGMC ASSESSMENTS FOR THE CITY OF BEMIDJI

Councilmembers were asked to review the proposed assessments for services by the Coalition of Greater Minnesota Cities and select those in which they want the city to participate in 2004. Motion by Downs, second by Zachman, to approve all four (4) assessments for 2004 as follows:

2004 General Assessment	\$13,231
CGMC Annexation Program	2,813
CGMC Economic Development Program	2,813
CGMC Environment Program	<u>2,813</u>
Total	\$21,670

Motion carried by the following vote: Ayes: Johnson, Hellquist, Meuers, Lehmann, Zachman, Erickson, Downs. Nays: None. Absent: None.

ORDINANCE NO. 360, 2ND SERIES: AN ORDINANCE AMENDING ORDINANCE #345, 2ND SERIES, ADOPTING A POLICY FOR REFUNDING BUILDING PERMIT FEES was given a final reading and passed by the following vote: Ayes: Lehmann, Meuers, Zachman, Hellquist, Erickson, Johnson, Downs. Nays: None. Absent: None.

ORDINANCE NO. 361, 2ND SERIES: AN ORDINANCE AMENDING THE BEMIDIJI CITY CODE FEE SCHEDULE PERTAINING TO SEASONAL WATER DISCONNECT/ RECONNECT FEES (Effective January 1, 2004) was given a final reading and passed by the following vote: Ayes: Erickson, Hellquist, Zachman, Meuers, Lehmann, Downs, Johnson. Nays: None. Absent: None.

AN ORDINANCE AMENDING ARTICLE 6 OF THE CITY OF BEMIDIJI ZONING CODE (Pertaining to Apartment Units as Special Uses in B-2 Zones, Planning Case #2003-31) was given a second reading.

AN ORDINANCE AMENDING AN UNCODED SECTION OF BEMIDIJI CITY CODE PERTAINING TO ALLEY VACATION (Planning Case #2003-37, PaskVan/Wagner) was given a second reading.

UPCOMING MEETINGS

January 12, 2004 – Joint City Council/Charter Commission meeting – 5:30 p.m. at City Hall

January 26, 2004 – City Council retreat – noon – 9 pm at Holiday Inn Express

REPORTS

Minke noted that during the discussion earlier this evening on annexation as it relates to the joint planning efforts, he felt there was not a full understanding of the purpose of the committee and what they are trying to do. Minke clarified that the city has never indicated it is willing to have a unilateral moratorium on annexation during the joint planning process. He suggested that the council explore the issue further at a work session to discuss what the city is willing to give up and what the city expects in return, prior to trying to pull together some sort of agreement. He expressed the importance of this discussion for those who serve on that committee and for the public.

Felix noted that he will have a report on the Shoreland Management Ordinance amendment later this month.

ADJOURN

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

Respectfully submitted

Shirley J. Sherman, City Clerk