

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

May 16, 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, May 16, 2005, 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, Markeson, Hellquist, Erickson, Downs, Meuers. Absent: Johnson

AMENDMENTS TO AGENDA:

Lehmann called for any amendments to the agenda. The following amendments were requested:

Remove - Approval of the May 9 and May 3 minutes.

Addition – Appoint Janice Moberg to the Joint Planning Committee

Authorize travel reimbursement for Councilmember Meuers to attend Land Use Planning Workshop on May 18th in Little Falls.

Motion by Downs, second by Erickson, to approve the agenda as amended. Motion carried by unanimous vote.

MINUTES

Minutes of the May 2, 2005, regular meeting were presented for approval. A typographical error was noted and correction acknowledged. Motion by Meuers, second by Markeson, to approve the minutes as corrected. Motion carried by unanimous vote.

CONSENT AGENDA:

The following Consent Agenda items were presented for approval. Meuers requested removal of item #7 – Sale of Surplus Equipment (Machine Guns) for further discussion. Motion by Downs, second by Meuers, to approve the remaining Consent Agenda items as follows:

- 1) Approved Claims Submitted by Finance Officer in the total amount of \$468,197.16
- 2) Approved the following Licenses/Permits
 - Miscellaneous Business License(s)
 - Fireworks License(s)
 - Beer License for Bardwell Park (final reading)
 - First consideration of a beer license – Breakers (new owner – John Vaughn)
 - Temporary On-Sale Liquor License –Jaycees (July 1-4, 2005)
 - Application for Jaycees to conduct Bingo (6/30-7/4, 2005)
- 3) Appointed Travis Guida to the Planning Commission to fill the unexpired term of Rita Albrecht (12/31/05)
- 4) Appointed Barb Meuers to Represent the City Council on the Bemidji Leads Action Team for the Multi-Purpose Event Center
- 5) Approved **RESOLUTION NO. 5228** to Not Waive The Monetary Limits On Tort Liability Established by M.S. 466.04
- 6) Approved Donation of Computer Equipment (Surplus Equipment) to the Occupation Development Center (ODC)
- 7) Approved transfer of Liquor License for new owner of Bar 209
- 8) Accepted proposal from Gary Battuello to do an appraisal of Northview Apartments

Motion carried by unanimous vote.

BEMIDJI YOUTH ADVISORY COMMISSION

Ray Leach provided a schedule of events for the June 7th event and presented a written request for approval of the activities. City Manager Minke noted that the Police Department communicated their preferred option was to have all of the activities at the waterfront, including the street dance, to minimize the noise factor for downtown apartment residents.

Minke will coordinate with the Police Department and provide a written response to the BYAC. Council was invited to participate in the activities at the waterfront on June 7th.

PUBLIC HEARING – City Project #04-13, Pine Ridge Avenue – Sidewalk Improvement

Pursuant to mailed and published notice, a hearing was held to consider a sidewalk extension on Pine Ridge Avenue south of 32nd Street, adjacent to The Meadows and Cottage Park Townhomes.

Brian Freeberg provided an overview of the project, noting that this is a portion of a larger project petitioned by North Country Health Services. The original project involves construction of Pine Ridge Avenue from 32nd Street to Anne Street and a portion of 34th Street East, including a sidewalk along the east side. North Country Health Services has agreed to pay 100% of the project costs for that portion of the project. Freeberg noted that the sidewalk could extend as far south as 30th Street, adjacent to the Meadows and Cottage Park. Since the property owners for those developments have not been involved in the petitioning process, notice of a public hearing was mailed and published. The total cost of the sidewalk extension is estimated at \$12,900. The City would pay \$6,450 and \$6,450 would be special assessed.

Mayor Lehmann opened the public hearing and invited those present to comment on the issue. No one appeared. The public hearing was closed.

RESOLUTION NO. 5229, A RESOLUTION ORDERING IMPROVEMENT, DESIGNATING PROJECT ENGINEER, CALLING FOR PREPARATION OF PLANS AND SPECIFICATIONS, AND AUTHORIZING ADVERTISEMENT FOR BIDS ON CITY PROJECT #04-13 (Sidewalk Portion Of The Project Extending Past The Health Services Property To 30th Street) was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Markeson, was passed by unanimous vote.

PLANNING CASE #2005-7: Filed by James & Liz George, requesting a variance to build a four-foot by seven-foot (28 square foot) deck or balcony on the second floor of the lakeside of their house situated at 510 Woodland Avenue SW. The house is currently situated approximately 19 feet from the ordinary high water mark of Lake Irving. The deck is proposed to extend four feet closer to the lake, therefore, an additional four-foot lakeside encroachment setback variance is being requested. Five variances were approved by the City Council in 2003 and one was for a thirty-one foot lakeside setback variance, allowing Mr. & Mrs. George to build their second floor addition 19 feet from Lake Irving, directly above the existing first floor of the house. Planning Commission recommended denial.

Lehmann noted that during his review of the matter, he visited with the contractor and learned that the deck could be cantilevered.

Motion by Erickson, second by Meuers to accept the recommendation of the Planning Commission to deny the request. Motion passed by the following 5-1 vote: Ayes: Hellquist, Meuers, Markeson, Johnson, Downs, Erickson. Nays: Lehmann. Absent: Johnson.

TOPIC FOR JUNE 6, 2005 CHAT-A-BOUT PROGRAM

Councilmember Erickson agreed to discuss the Deer Management Plan.

SALE OF EXCESS PROOPERTY – COLLECTIBLE FIREARMS (MACHINE GUNS)

Meuers asked that this item be removed from the Consent Agenda for discussion. She did not want to transfer ownership of machine guns and asked if there is anything else that the City could do with the guns. She noted that Clearwater County destroys guns that are no longer in service.

In a memo to the Council, City Attorney Felix noted that the machine guns are considered "collectible firearms" and have a value estimated to exceed \$5,000. He noted that the firearms have no functional value to/for the Police Department and it is recommended that the items be sold. The firearms cannot, however, be sold to the general public as Federal Law restricts sales to dealers with a Federal Firearms License. The Federal Treasury Department, Division of Alcohol, Tobacco and Firearms (ATF) must approve sales.

Felix noted that City Code Section 2.70, Subd. 3 defines the City's procedure for sale of excess property valued at over \$5,000, particularly that the process be by public sale to the

highest bidder. The firearms cannot be sold to the general public, so our excess property sale regulations are inapplicable as it relates to this matter.

Director of Public Safety Preece noted that the two machine guns were originally donated to the Police Department in 1945 and 1956, and are not currently in service. The Police Department solicited quotes from approved firearm dealers and received written approval from the Federal government to complete the transaction. Two quotes were received. Preece recommended sale to the highest bidder.

Motion by Downs, second by Hellquist to waive the requirements of City Code Section 2.70, Subd. 3, and authorize the Police Department to proceed with sale of the "collectible firearms" to the federal firearms dealer who submitted the highest quote. Sale proceeds would be placed in the Police Department. Motion carried by the following 4-2 vote: Ayes: Downs, Johnson, Lehmann, Hellquist, Markeson. Nays: Meuers, Erickson. Absent: Johnson.

ORDINANCES

FINAL READING of An Ordinance amending Chapter 6 of the Bemidji City Code by repealing Section 6.40, Entitled Pawnbrokers, Secondhand Goods and Junk Dealers, and Adding New Section 6.40 Relating to the Licensing and Regulation of Pawnbrokers, Secondhand and Precious Metal Dealers, and adopting, establishing and implementing the use of the automated pawn system (APS) in Furtherance Thereof

Minke noted that on May 2, the City Council held the Public Hearing and the Second Reading of an ordinance amending the City's Pawnbrokers, Secondhand and Precious Metal Dealers Ordinance. A number of issues were raised at the public hearing and in the subsequent City Council discussions. Beltrami County is considering a similar ordinance. The Council continued the 3rd reading to allow City and County representatives to meet to discuss the proposed ordinances.

A meeting was held on May 10th and Minke provided a memo with some of the highlights of that meeting. Assistant City Attorney Brand provided recommendations for changes to the proposed ordinance based on input from the City Council, conversations with various business owners, and a meeting with County representatives.

City Attorney Felix noted that there would be recommendations for language modifications at the 3rd reading of the proposed ordinance. He suggested that the Council continue the 3rd reading to June 20 so that the City's final draft ordinance will mirror the County's.

In reviewing the ordinance provided in the Council packet, Erickson noted that the Council voted to change the fee to \$1 per transaction and to amend the minimum transaction in Subd. 2 J. 9) from \$15 to \$20. However the most current draft of the proposed ordinance shows that the minimum amount has been stricken and modified to include every transaction. She asked for clarification.

Felix noted that this is one of the proposed amendments recommended for the 3rd reading, because it is important to report all transactions, whether it is manual or automatic.

Minke questioned whether the discussion had been regarding billing of the transaction fee, which is different than creating an exemption that does not require reporting of transactions less than \$20. Under the current ordinance there is no exception for any transaction. They must all be reported. Minke recalled that the bulk of the discussion was about the fee and whether there should be a fee and if so, what amount.

Hellquist recalled that the discussion was that anything less than \$20 was not to be charged a fee and would not have to be reported through the automated system.

Other council members agreed that was their understanding of the discussion and the purpose of Council action.

Felix strongly recommended against excluding transactions of less than \$20 for pawnbrokers. He reiterated that due to the fact that the Council voted for that amendment, a recommendation is being made to revise that section of the ordinance dealing with pawnshops to not allow any transaction exemptions. He agreed that a provision to exempt transactions of less than \$20 for Secondhand Goods Dealers would be possible.

Hellquist clarified that his comments were directed to the automatic system where the intent was to exempt transactions of less than \$20 from the automated system, but not from the manual reporting system.

Felix reminded the Council that it is more expensive to deal with manual transactions. He further noted that any exemption would permit a category of unreported transactions, creating an opportunity for stolen goods in that category to be ignored completely, seriously undermining law enforcement efforts.

Erickson expressed concerns about increased costs to the City if the Council agrees to do away with the City's fifty cent fee and establishes a requirement for automated reporting of transactions over \$20, and manual reporting of transactions less than \$20.

Felix noted that the County Board would meet in a work session tomorrow. The recommendation is for no exception to the automatic reporting or the minimum amount for reportable transactions. If the discussion is favorable, the County Attorney will prepare for the first reading of an ordinance at their next regular board meeting. He suggested that the June 20th Council meeting might be more realistic to have the 3rd reading of the City ordinance.

Markeson questioned whether the County has seen the ordinance as proposed by the Council. Minke explained that the City and County have been working on this ordinance together during the past number of weeks. Following the May 2 Council meeting, City staff met with County staff to discuss the ordinance including the amendments adopted by the Council on May 2. The County did not approve the exemption. Based on the fact that the Council also expressed their desire to have the City and County ordinances mirror one another, further amendments were proposed.

Downs asked whether the County ordinance would supercede the City's ordinance, similar to the Smoking Ban. Minke noted that the Smoking Ban is a special case where the County Board was acting as the Board of Health, not as the County Board of Commissioners. In an instance like this, the City has the authority to regulate within the City and the County has the authority to regulate in unincorporated areas of the County.

Hellquist asked where the fee goes that is collected from the Police Department to participate in the APS program. In her memorandum to the Council, Assistant City Attorney Brand provided a cost analysis from the City of Minneapolis for the APS and cited some statistics relating to stolen and pawned items.

Hellquist questioned whether the City would see a future reduction in the cost to participate in the program. Brand suggested that possibility once the City of Minneapolis has recouped their costs for creating the program.

Erickson questioned the need for a pawnbroker to orally inform a customer that he is taking a picture. It was agreed that provision should be reviewed and the language changed.

Erickson also asked whether any consideration had been given to whether or not there is a legitimate difference between antique dealers and secondhand dealers and whether the City should classify them differently. Further discussion was recommended. Staff will review the Minneapolis ordinance to see how that City deals with the issue.

Effective date for the proposed ordinance is recommended to be January 1, 2006.

Motion by Erickson, second by Downs, to continue the 3rd reading of this ordinance until June 6th. Motion carried by unanimous vote.

Don Wittman of Pawn USA asked whether he could participate in some way to format this ordinance. He was directed to channel his comments or suggestions through the City's Legal Department.

The Third Reading of AN ORDINANCE AMENDING THE 2005 FEE SCHEDULE was continued to the June 6th meeting.

ORDINANCE NO. 402, 2ND SERIES – AN ORDINANCE AMENDING AN UNCODED SECTION OF BEMIDJI CITY CODE PERTAINING TO VACATION OF A PORTION OF 7TH STREET (Planning Case #2005-05) was given a final reading and passed by unanimous vote.

ORDINANCE NO. 403, 2ND SERIES – AN ORDINANCE AMENDING CHAPTER 8, SECTION 8.07, OF THE BEMIDJI CITY CODE ENTITLED “SNOWMOBILE REGULATIONS”, BY ADDING PROVISIONS ADOPTING SPEED LIMITS ON DESIGNATED SNOWMOBILE TRAILS WITHIN THE CITY, AND BY IMPOSING PENALTIES FOR VIOLATIONS was given a final reading and passed by unanimous vote.

ORDINANCE NO. 404, 2ND SERIES – AN ORDINANCE AMENDING CHAPTER 13 OF THE BEMIDJI CITY CODE TITLED ZONING REGULATIONS (Landscaping) was given a final reading and passed by unanimous vote.

ORDINANCE NO. 405, 2ND SERIES – AN ORDINANCE AMENDING THE CITY CODE BY ADDING CHAPTER 14 TITLED TREE PRESERVATION AND REPLACEMENT was given a final reading and passed by unanimous vote.

UPCOMING MEETINGS

Monday – May 23, 2005 – 5:30 p.m. @ City Hall – Deer Management Plan Review

COUNCIL/STAFF REPORTS

Minke requested discussion on the SE Lake Bemidji issue memorandum. He noted that as part of the retreat process and the follow up, the Council requested issue memorandums on the top five priorities. Minke prepared and mailed a memorandum to the Council last week on the first priority - SE Lake Bemidji. He explained that his intent is to ensure that there is a common base understanding of the issue, and to 1) raise what he understands to be the unresolved issues; 2) to frame the direction that the Council might need to take to resolve the issue. He asked if the Council has any thoughts on the process, whether his intentions are in line with what the Council is looking for, and if the initial memorandum meets expectations.

Lehmann noted that he has not had an opportunity to review the memorandum in detail but it appears to capture the history and discussions that have taken place. He noted that the Local Option Sales Tax Bill is in Conference Committee and includes a boost in Local Government Aid.

Markeson expressed appreciation for the information and asked about the possibility of another work session to devote some time to talking about what other people are interested in. Minke suggested there would probably be multiple work sessions, but noted that timing would be an issue. The City needs to wait until the Legislature has adjourned. He noted that the sales tax would not fund SE Lake Bemidji – the language in the Bill specifically references the 2001 Park Plan. It might be possible for some of the proceeds to go to SE Lake Bemidji for trail acquisition, but it is not intended to develop SE Lake Bemidji. Minke further suggested that the group being formed by Bemidji Leads be given an opportunity to meet and discuss the issue and format a plan to work with the City. He suggested that the issue needs to be a community wide effort and this group is one of the ties to that effort.

Discussion followed regarding Council representation on the Bemidji Leads committee for development of SE Lake Bemidji. Lehmann recommended appointment of Councilmember Erickson for participation on that committee. The Council agreed.

ADJOURN

There being no further business, motion by Downs, second by Markeson, to adjourn the meeting. Motion carried. Meeting adjourned at 8:25 p.m.

Respectfully submitted,

Shirley Sherman, City Clerk