

CITY COUNCIL PROCEEDINGS

Bemidji, Minnesota

September 7, 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 Tuesday, September 7, 2004, at 7:00 p.m. in the Council Chambers of the City Hall, Mayor Lehmann presiding.

Upon roll call the following Council members were declared present: Downs, Erickson, Lehmann, Meuers, Hellquist, Johnson. Absent: Zachman.

Mayor Lehmann called for approval of the agenda. Two items were added to the agenda: 1) Public Relations Committee Report; 2) Discussion regarding the fence along the south shore of Lake Bemidji (Hwy 197). Motion by Johnson, second by Erickson, to approve the agenda as amended. Motion carried by unanimous vote.

MINUTES

Minutes of the August 16, 2004 Regular Council Meeting and August 30, 2004 Work Session were represented for approval. One correction was noted that Hellquist was listed twice in the roll call of the August 30th meeting. Motion by Erickson, second by Hellquist to approve the minutes as corrected. Motion carried by unanimous vote.

CONSENT AGENDA

The following Consent Agenda items were presented for approval. Motion by Downs, second by Meuers, to approve the items on the Consent Agenda. Motion carried by unanimous vote.

- A) Approved Eleven (11) pages of claims as submitted by the Finance Officer, in the total amount of \$831,698.99.
- B) Approved miscellaneous business licenses.
- C) Authorized a two-year contract between the City and the Bemidji Rural Fire Association, Inc.
- D) Approved renewal of a one-year contract with Minnesota Municipal Utilities Association (MMUA)

COMMITTEE REPORTS

Bemidji Youth Advisory Commission (BYAC)

Jon Staff provided an update on the activities of the BYAC, noting that the trip to the north shore was cancelled due to scheduling conflicts. Plans are underway for a fall retreat at Concordia Language Village to do some planning for the year. One of the goals identified by the BYAC is to create a youth center in Bemidji. The members are brainstorming fundraising ideas and working to develop a survey to determine the interest of other area youth. Other projects include continuation of the Listening Lunches at the High School with possible expansion of this program to other schools in the area.

BSU Student Senate

Jake Overgaard, BSU Student Senate VP, provided written communication noting that at their September 1st meeting, the Student Senate identified two issues to be addressed as the academic year gets under way: 1) smoking ban proposed by Beltrami County (he noted there is also a movement to make BSU completely smoke free).and 2) voter registration drive. He noted that he is unable to attend Council meetings as has a class conflict on Monday and Tuesday, but efforts are being make to find a representative who can attend the Council meetings on a regular basis.

Fishing Has No Boundaries – 2004 Update

Vance Balstad introduced Jim McKeon and Connie Kelm as the new Co-Chairpersons for the 2005 Fishing Has No Boundaries event. Committee members expressed appreciation to the council for their support in making this a successful event in 2004.

Deer Committee Update

Nancy Erickson highlighted the September 2nd meeting, noting that preparations for the Management Plan are underway with Steve Caron (DNR) providing technical advice. Deer counts will be taken and feedback solicited from areas throughout the entire city. Erickson requested feedback from council members regarding deer problems in other areas of the city. Downs and Lehmann noted mixed response relating to neighborhood deer problems, but reported no significant issues. Erickson agreed to keep the public informed regarding any action to be taken. The next meeting is scheduled for September 16, 2004.

Trail Committee Update

Jerry Downs noted the Trail Committee met on September 1st and reviewed the proposed preliminary plat for the Southeast Lake Bemidji area, which identifies a trail corridor on the south side of the property for snowmobiles trail and another corridor along the lake for non-motorized traffic. The committee discussed pending appraisals, land acquisition possibilities and funding sources for trail development, including the possibility of a local sales tax, which will be presented again in the 2005 legislative session.

Public Relations Committee Update

Johnson reported that the Public Relations committee met last week to finalize plans for the Ward Five council member candidate debate scheduled for Thursday, September 9, 7:00 p.m. He also noted that the committee will sponsor a debate for District 4A candidates Fuller, Moe and Steele on Wednesday, October 20 at 7:00 p.m.

CONTINUED DISCUSSION REGARDING PURCHASE OPTIONS FOR SE LAKE BEMIDJI AREA – COUNCIL DECISION REGARDING BALLOT QUESTION

At the August 16th meeting, Council members considered the possibility of issuing General Obligation debt to acquire land on SE Lake Bemidji (Georgia Pacific site and BNSF railroad corridor). Council agreed to continue the discussion in hopes of having a preliminary appraisal by this date to assist in making a decision regarding the ballot question.

A copy of a letter dated September 2, 2004, from appraiser Gary Battuello was distributed for council review. The estimated value of the entire parcel was between \$3.5 million and \$4 million. He also noted that the appraiser is continuing to work to come up with a number of different scenarios and values for specific parcels or specific corridors.

Minke reminded the Council that action was necessary at this meeting if they want a question on the ballot for the November 2, 2004 General Election. Council expressed the need for the final report from the appraiser, and the need to look at other funding sources, including the local sales tax and Trust for Public Land. The Council agreed that they are not prepared to ask the voters for authorization to issue General Obligation Bonds at this time.

Motion by Hellquist, second by Johnson, to direct staff to continue gathering information and investigate optional funding sources for acquisition and trail development. Motion carried by unanimous vote.

**CONTINUED PUBLIC HEARING – ICELANDIC PROPERTIES (EXTENSION OF STREET & UTILITIES, 23RD STREET WEST OF JOHANNESON AVENUE)
CONTINUED FROM THE AUGUST 16TH MEETING**

At the request of the petitioner, Council continued the public hearing on this issue on August 16th to allow him an opportunity to review project alternatives with the City Engineer.

City Engineer Freeberg reported that he met with Keith Johanneson of Icelandic Properties, Inc. who has expressed no particular urgency in proceeding with the project this year. Johanneson will contact the Engineer at a future date when he intends to proceed with the project. Motion by Erickson, second by Meuers, to continue the public

hearing on this project to a future date to be determined by the petitioner. Motion carried by unanimous vote.

APPROVE LANGUAGE FOR BALLOT QUESTIONS – CHARTER AMENDMENTS

Earlier this year, the Charter Commission recommended a number of amendments to the Bemidji City Charter. The Council adopted several of them by ordinance. Two amendments were not adopted by ordinance. Those recommendations will be placed on the ballot for the November General Election.

Proposed language for the two ballot questions was presented for Council review. Motion by Meuers, second by Erickson, to approve the proposed language for Question #1 and Question #2 to be placed on the November 2, 2004 General Election ballot. Motion carried by unanimous vote.

AUTHORIZE COUNCIL TRAVEL TO THE LMC ANNUAL CONFERENCE (OCT. 10-12, 2004)

Motion by Johnson, second by Erickson, to approve reimbursement of travel expense for Councilmembers to attend the League of Minnesota Cities Annual Conference – October 10-12, 2004. Motion carried by unanimous vote.

PLANNING CASE #2004-01: – Filed by ShoreQuest (John Zacher) requesting a Subdivision, Preliminary Plat, amended proposal, to subdivide property totaling 74.3 acres and zoned B-2 (Shopping Center / Highway District) into 42 commercial parcels and three outlets. Twenty-five of the parcels and one outlot are proposed to front onto Lake Bemidji. This amended proposal includes both the former Georgia Pacific and Burlington Northern Railroad properties and is situated at 280 Nymore Beach Road NE, on the south shore of Lake Bemidji. The Planning Commission recommended approval of the Shorequest, LLC amended Preliminary Plat, received August 9, 2004, with the following conditions:

1. The Shorequest, LLC Preliminary Plat shall include 42 parcels, as identified in the Preliminary Plat received August 9, 2004.
2. The utility extensions and grading will be completed as identified in the Preliminary Utility Plans & Preliminary Grading Plans received August 9, 2004.
3. The applicant will continue his active involvement and participation in the VIC Program with MPCA, and include the individual parcels and the roads, along with the railroad property.

Erickson called attention to a letter from Jos. Waslaski, property owner in the SE Lake Bemidji area, noting that he has not agreed to sell his 5.35 acre parcel which abuts the railroad corridor. City Attorney Felix noted that not all of the railroad property is included in the revised Preliminary Plat, and the Waslaski parcel is one of those parcels not proposed for platting at this time.

Erickson asked about contamination on the site. Engineer Brian Grund, representing the property owner, responded that the property owner is currently involved in the MN Pollution Control Agency VIC Program. He explained that the MPCA controls every step of the process. Phase I and II of the process for the Georgia-Pacific site have been completed and a Work Plan has been submitted. Phase I is complete and Phase II has been submitted for the railroad site. When that is approved, a work Plan will be submitted. Once all of the investigation has been completed, MPCA will address any concerns and designate any areas for clean up. The property owner anticipated that the project will then be permitted to move forward to do work under a contingency plan.

Downs felt that once the plat is approved and the parcel is divided into 42 lots, the remedial process would be more difficult.

It was suggested that approval of the Plat be postponed until the parkland dedication ordinance is in effect. Felix noted that the parkland dedication ordinance is indefinite and the Council cannot hold this plat to a standard that is not in place. He noted that the proposal meets the City's current platting requirements and the Council would need a rational basis for denying the request.

Johnson felt that the land value might increase once the parcel has been platted into 42

lots, and suggested that it might be beneficial for the City to purchase the entire parcel.

Zacher felt that he has been working in good faith and has responded to the City's needs by providing for trails and wetlands in the proposed plat. He felt there was no reason for delaying the process. He suggested that he would not be presenting a final plat before the early part of 2005, giving the Council time to review the final appraisal and an opportunity to explore funding options for land purchase.

Motion by Hellquist to approve the Preliminary Plat with conditions noted. The motion failed for lack of a second.

City Attorney Felix noted that the failed motion is not enough to be considered a denial – a formal motion must be made if the Council wishes to deny the plat.

Discussion continued and the Council agreed to add a condition that would require a stipulation on all deeded properties requiring new property owners to place the parcel in the VIC program before a building permit can be issued.

It was also suggested that another condition be added requiring designation of trail easements on the Preliminary Plat.

Motion by Downs, second by Hellquist to approve the Preliminary Plat with the three conditions noted and adding two more conditions as follows:

4. A stipulation must be included on all deeded properties, requiring new property owners to place the parcel in the VIC program prior to issuance of a City building permit.
5. Trail easements must be designated on the Preliminary Plat.

Motion carried by unanimous vote.

PLANNING CASE #2004-22: Filed by Up North Mississippi Landing (John Filardo), requesting a special use permit for expansion of a commercial marina, including a proposed private watercraft access ramp; a second boat dock, with eight additional boat slips; additional signage; recreational vehicle and tent camping sites; and two new buildings. The property is situated on Lake Irving in North Lake Irving, at 303 Railroad Street SW. The Planning Commission recommended approval with the following conditions:

1. Only seasonal occupancy will be permitted on the site.
2. An annual review of the special use permit will be conducted by the Planning Commission for a minimum of two years.

Council wanted assurance that the units using the facility would be recreational vehicles and not mobile homes. They also asked that the "season" be defined for condition #1.

Mr. Filardo assured the Council that the sites would not be appropriate for mobile homes and noted that one campsite will be designated as a host campsite with an RV parked for the season. Water and sewer will be provided for all RV campsites and a dump station will be located on the grounds. Tent camp sites will be located closer to the shore, but will be screened by vegetation. The "season" was defined as May 1 through October 31.

Council discussed storage of RV's during the off season and agreed to permit storage of RV's in a covered facility.

Motion by Downs, second by Erickson, to approve the Special Use Permit with the following conditions:

1. Only seasonal occupancy (May 1 through October 31) will be permitted on the site.
2. An annual review of the special use permit will be conducted by the Planning Commission for a minimum of two years.

3. Off-season storage of RV's permitted in a covered structure. Boats may be stored outside. Number of stored boats is limited to the number of boat slips at the site.

Motion carried by unanimous vote.

PLANNING CASE #2004-25: Filed by Tomy Hegland, requesting a zero lot line variance to build an 1,825 square foot addition onto his existing office building situated at 908 Paul Bunyan Drive South. The West Side of his building is currently situated on the property line adjoining another commercial building. The Zoning Ordinance requires a 10 foot side yard setback on this B-2 (Shopping Center / Highway) zoned property, therefore, a 10 foot side yard setback variance is being requested. The Planning Commission recommended approval.

Motion by Downs, second by Johnson, to approve the variance as recommended by the Planning Commission. Motion carried by unanimous vote.

PLANNING CASE #2004-26: Filed by Mark Dickenson, requesting a Subdivision, Preliminary Plat, to subdivide 32.76 acres into 16 residential parcels, one outlot, and to build a street with a cul-de-sac longer than the maximum length allowed by Ordinance. The property is situated east of the airport, north of Anne Street NW, and west of Paul Bunyan Technology Park. The Planning Commission recommends approval of the Whispering Meadows Preliminary Plat with the following conditions:

- 1 The Whispering Meadow Preliminary Plat shall include 16 parcels, as identified on the plat received on August 9, 2004.
- 2 The proposed cul-de-sac, Whispering Meadows Court NW, may be built about 1,026 feet long, or 526 feet longer than the 500 feet allowed by Ordinance

Council discussed the concerns expressed by the Airport Manager at the August 23rd Planning Commission meeting regarding noise and safety issues due to the proximity to the airport. Council agreed to add a condition alerting potential buyers/residents to the noise/safety issues.

Motion by downs, second by Johnson, to approve the Subdivision Preliminary Plat with the conditions noted by the Planning Commission and adding the following condition:

3. The developer is required to disclose the potential for noise/safety issues associated with the airport and its operations, to potential buyers, noting that there will be no legal recourse to future remedies against the airport, City of Bemidji, County of Beltrami, etc.

Motion carried by unanimous vote.

PLANNING COMMISSION #2004-27: Filed by Westwood Acres, LLC, requesting to rezone a 12.78 acre portion of a recently vacated mobile home park from MH (Mobile Home) District to B-4 (Heavy Business) District. The property is situated at 1600 Paul Bunyan Drive NW. The public hearing also addressed closing the north portion of the Westwood Acres Manufactured Home Park, including 26 mobile home lots. The Planning Commission recommended approval of the rezoning of the north 2.78 acres of the Westwood Acres Mobile Home Park, from M-H (Mobile Home) to B-4 (Heavy Business), based on the five findings of fact, and acknowledge the public hearing was also held to discuss the proposed closing of the north portion of the mobile home park.

Motion by Hellquist, second by Downs, to approve the rezoning as recommended by the Planning Commission. Motion carried by unanimous vote.

ESTABLISH NEW ACCOUNTS TO CITY FINANCIAL ORGANIZATIONAL STRUCTURE

Finance Director Eischens noted that the City has several funds in order to account for the resources and expenditures for various purposes. From time to time it becomes necessary to add funds in order to track a particular activity. During the 2005 budget process the Council discussed several issues that should be segregated into their own funds. Eischens recommended adding the following funds:

Equipment Escrow Fund
 Building Escrow Fund
 Refuse Fund

Motion by Downs, second by Meuers, to approve the request to establish the three funds as identified. Motion carried by unanimous vote.

DISCUSSION OF FENCE ALONG THE SHORE OF HWY. 197 (REALIGNMENT PROJECT)

Erickson noted a request to have the Council pass a resolution requiring removal of the fence along the shore of Hwy 197. Councilmembers expressed a variety of responses to the fence – some in favor, and some in opposition. The consensus was to do nothing at this time.

ESTABLISH TNT HEARING DATE

Motion by Erickson, second by Hellquist to hold the Truth in Taxation hearing on the proposed 2005 budget on December 6, 2004 at 5:30 p.m. prior to the regular Council meeting. The date of a continuation hearing (if necessary) was set for December 13, 2004 at 5:30 p.m. Motion carried by unanimous vote.

RESOLUTION NO. 5173: A RESOLUTION ADOPTING PRELIMINARY 2005 BUDGET was offered by Councilmember Hellquist, who moved its adoption, and upon due second by Councilmember Erickson, was passed by unanimous vote.

RESOLUTION NO. 5174: A RESOLUTION APPROVING PRELIMINARY 2004 TAX LEVY COLLECTIBLE IN 2005 was offered by Councilmember Downs, who moved its adoption, and upon due second by Councilmember Meuers, was passed by the following 5-1 vote: Ayes: Lehmann, Meuers, Hellquist, Johnson, Downs. Nays: Erickson. Absent: Zachman.

NORTHVIEW MANOR BUDGET

The Northview Manor 2005 operating budget (prepared by Great Lakes Management) was presented for Council review and approval. Motion by Erickson, second by Hellquist, to approve the budget as presented. Motion carried by unanimous vote.

RESOLUTION NO. 5175: A RESOLUTION ACCEPTING FEASIBILITY REPORT AND CALLING FOR A PUBLIC HEARING ON EXTENSION OF UTILITIES TO 40-ACRES LOCATED IN SOUTHEAST BEMIDJI (Nymore area) City Project # was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Downs, was passed by unanimous vote.

RESOLUTION NO. 5176: A RESOLUTION ACCEPTING PETITION ORDERING PREPARATION OF A FEASIBILITY REPORT (Street/Sidewalk Improvements on Pine Ridge Avenue) was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Meuers, was passed by unanimous vote.

ORDINANCES:

Public Hearing and 2nd Reading of an Ordinance Approving the Sale of Land to Habitat for Humanity (1200 America Avenue NW)

Pursuant to mailed and published notice a public hearing was held to consider approval of an ordinance authorizing the sale of land located at 1200 America Avenue. Mayor Lehmann opened the public hearing. No one appeared. The public hearing was closed

AN ORDINANCE AMENDING AN UNCODED SECTION OF THE BEMIDJI CITY CODE (Authorizing Sale of Real Property at 1200 America Avenue to Habitat for Humanity) was given a 2nd reading.

REQUEST TO PURCHASE FRONT-END LOADER FOR STREET DEPARTMENT

Minke presented a request to purchase a Front End Loader for the Street Department at a cost of \$92,131. He noted that the 2005 budget included \$30,000 to rent a loader, but it appears that the Street Department will end 2004 with a budget saving. The department proposed to use the 2004 saving to purchase the front-end loader and

reduce the 2005 budget by \$30,000. It was noted that the front-end loader was used primarily during the winter for snow removal. The council was concerned that would be spending 2004 savings which was intended to reduce the 2005 levy.

Council suggested that the request should be tabled for one year. It was also suggested that the City look at contracting with a private entity to assist with snow removal.

ADJOURN

There being no further business presented for discussion, motion by Hellquist, 2nd by Meuers, to adjourn the meeting. Motion carried by unanimous vote. Meeting adjourned 11:10 p.m.

Respectfully submitted,

Shirley Sherman, City Clerk