

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

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

Mayor Lehmann called for amendments to the agenda. One item was added – Establishment of a Public Relations Committee. Motion by Downs, second by Johnson, to approve the agenda as amended. Motion carried by unanimous vote.

APPROVAL OF MINUTES

Minutes of the March 15, 2004 Regular Council meeting and March 22, 2004 Council Work Session were presented for approval. Motion by Meuers, second by Downs, to approve the minutes as presented. Motion carried by unanimous vote.

CONSENT AGENDA

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

- A. Approved eight (8) pages of bills in the amount of \$213,225.67.*
- B. Approved Two General Business Licenses*
- C. Approved Gambling Permit for Boys & Girls Club of Bemidji (Raffle - held on July 18)*
- D. Approved appointment of Michael Meuers to the Heritage Preservation Commission*
- E. Approved Lincoln School Neighborhood Rehab Grants 438.012, 438.013, 438.014, and 438.015.*
- F. Authorized Purchase of Portable Self-Priming Pump for Sewerline Department*
- G. Authorized Purchase of Replacement Pickup Truck for Water Department*
- H. Awarded Quote for Aggregate Materials*
- I. Awarded Bid for Sanitary Cleaning & Television Inspection*
- J. Awarded Bid for Survey of Former Railroad Right of Way*

BEMIDJI YOUTH ADVISORY COMMITTEE REPORT

Endera Phukan reported on the Youth Day event scheduled for June 7th from 1pm – 5 pm at the waterfront and invited the Council to participate in the dunking tank event. A street dance is being planned for the evening – no details are available at the time. The youth advisory committee also extended appreciation to Roger Hellquist for a \$200 donation for shirts.

BSU STUDENT SENATE REPORT

Jason Swanson noted that the MSUSA Conference will be held in Bemidji at the end of April. The Student Senate President and Vice-President elections will be held the week of April 12th. Jason also noted that this will be his last year at BSU – he will be leaving at the end of May. Representatives of the Student Senate Legislative Affairs Committee are currently preparing for the BSU lobby trip to St. Paul on April 20.

ANNEXATION OF AIRPORT PROPERTY

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 the annexation of 80-acres of airport property to the corporate limits of the City of Bemidji.

Mayor Lehmann opened the public hearing and invited anyone present to comment. No one appeared.

The public hearing was closed.

ORDINANCE NO. 369: AN ORDINANCE ANNEXING PROPERTY ALONG BALSAM ROAD NW TO THE CORPORATE LIMITS OF THE CITY OF BEMIDJI (Airport Property) was given a third reading and passed by unanimous vote.

Planning Case #2004-11 ~ filed by Beltrami County, requesting a special use permit to build a proposed new County Administrative Building on four R-3 (Single-Family Residential) zoned parcels in addition to a portion of the vacated America Avenue NW right-of-way, totaling 0.58 acre. The property is located in the southeast corner of City Parking Lot #9 on the north side of 7th Street NW, east of America Avenue NW. Planning Commission recommended approval with three conditions:

- (a) The south entrance to City Parking Lot #9 be located where the City Engineer recommends, directly to the north of America Avenue NW.
- (b) The existing sidewalk on the north side of 7th Street NW be retained and connected to the entrances of the new building.
- (c) Attractive landscaping be required on all four sides of the building.

Motion by Downs, second by Meuers, to accept the recommendation of the Planning Commission to approve the request with the conditions noted. Motion carried by unanimous vote.

Planning Case #2004-12 ~ filed by Beltrami County requesting five variances for siting a proposed new County Administrative Building on property located in the southeast corner of City Parking Lot #9. This property is zoned R-3 (Single Family Residential). The variance requests are identified as follows:

- (a) Front yard, south (7th Street NW) setback is proposed to be 18 feet, seven inches. Ordinance requires 30 feet, an 11 foot, five inch variance is requested.
- (b) West, side-yard (vacated America Avenue NW). The building, including the west entryway, is now being proposed to be situated about 30 feet west of the four parcels, so the County is requesting the City to include a portion of the vacated street to be deeded to the County. Assuming the new property line is drawn on the west side of the west entryway, a zero lot line is requested. Ordinance requires 25 feet for special uses, a 25-foot variance is requested.

- (c) East, side yard (existing alley) setback is now proposed to be about 16 feet to the building and seven feet to the east side of the entryway. Ordinance requires 25 feet, an 18-foot variance is requested.
- (d) Rear yard, north setback is proposed to be about seven feet. Ordinance requires 30 feet, a 23-foot variance is requested.
- (e) Assuming the City deeds the additional 30 feet of America Avenue NW right-of-way to the County, the building will cover about 71.2 percent of the property. Ordinance permits a maximum of 30 percent lot coverage, variance requested for the additional proposed lot coverage from 30 percent to 71.2 percent.

Planning Commission recommended approval of the five variances as requested, with the condition that the property be transferred from the City to the County, including approximately 30 feet to the west of the current identified parcels.

Motion by Zachman, second by Hellquist, to accept the recommendation of the Planning Commission to approve the five variances and to approve the transfer of property from the City to the County including approximately 30 feet to the west of the current identified parcels. Motion carried by unanimous vote.

Minke requested authorization to enter into a **Memorandum of Understanding** with Beltrami County relating to the sale of a portion of parking lot #9. Motion by Zachman, second by Erickson, authorizing the Mayor and City Manager to execute a Memorandum of Understanding relating to the sale of property for the proposed new County Administrative Building. Motion carried by unanimous vote.

Planning Case #2004-13 ~ filed by Bill Barthelemy requesting a minor subdivision to subdivide one existing parcel located at 1110 Roosevelt Road SE, including one house, into three conforming single-family parcels. Planning Commission recommended approval.

Zachman noted that he is reluctant to support this request based on a number of telephone calls and a petition from 37 of the surrounding property owners voicing strong opposition to this subdivision, expressing their concerns for the impact on property values.

Erickson noted that one of the property owners in the area expressed that their greatest concern is with Lot C of the proposed subdivision. It was noted that Lot C (125' x 188'), which fronts on Miles Avenue, could potentially be divided into three parcels.

Angela Krigbaum, 1205 Helen Street, expressed concerns that this subdivision would be setting a precedent for future division of proposed lot C into three lots. She expressed opposition to the entire subdivision noting that it would change the integrity of the existing neighborhood. She asked why minimum requirements prevail when lots in the existing neighborhood are larger than minimum. She noted that the neighbors are concerned the subdivision will lower the real estate value of the area.

Lehmann noted that the property owner has met the requirements of the ordinance regulating subdivisions in this particular zone.

Henry Krigbaum, 1205 Helen Street, suggested that the council should have the ability to make a decision outside of the minimum requirements imposed by ordinance, based on the best interest of the properties in the area. Krigbaum also noted that he expressed an interest to purchase the property before it went on the open market.

Zachman inquired whether Lot C (125.05' x 188.04') as proposed by the Certificate of Survey, could be subdivided in the future. City Planner Oakes responded affirmative. The 23,505 sq. ft. lot would have to be platted with minimum lot sizes of at least 6,000 sq. ft. Oakes noted that the property owner has not indicated his desire to do that. Instead, he is interested in selling Lot C as a single parcel.

Erickson asked whether the Council would have the authority to deny a subdivision request based on findings that the subdivision would devalue the surrounding properties. City Attorney Felix noted that inasmuch as the proposed subdivision meets minimum ordinance requirements, the Council would need to provide reasonable or factual evidence that surrounding property values would be diminished by allowing this subdivision. Felix further suggested that an ordinance amendment might be in order if the Council feels the existing ordinance is inadequate to meet the needs of certain areas of the city. Erickson suggested the need for a Suburban Residential Zone that would require larger lot sizes. It was noted that the current ordinance requires larger minimum lot sizes for parcels that are unsewered.

Minke noted that the task at hand is to look at the proposal and determine whether it meets the city's existing law. To deviate from the minimum requirements of the city's ordinance requires the Council to show a rational basis.

Zachman asked why the Council would even have to consider it if the request meets minimum standards. Minke noted benefits from a public forum with the Planning Commission and City Council as well as state statutes. He expressed the need to ensure that the appropriate process is followed.

Mike Fairbanks, 1209 Helen Street SE, expressed concerns that the property owner wants to create rental housing and that the smaller lots would change the character of the neighborhood.

Oakes noted that the lots in the area vary widely, including some lots as small as 37.5, 50, 60, 64, and 70 feet in width. He further noted that the property owner could alleviate the concerns of the neighborhood by subdividing the property into just two parcels - combining parcels A & B into one new lot (16,876 sq. ft) with the remaining parcel being 23,505 sq. ft. However, he noted that the proposed three-parcel subdivision meets minimum ordinance requirements.

Bill Barthelemy, owner of the property at 1110 Roosevelt Road, explained that his proposal is not for minimum 6,000 sq. ft. lots – instead, his proposal is for two 8,438 sq. ft. lots and one 23,505 sq. ft. lot. He noted that he does not intend to subdivide Lot C and feels that he has actually improved the neighborhood by upgrading the existing structure, located on Lot A, which was in need of considerable repair. He recapped his proposal to sell the existing home and offer adjoining Lot B as an option to that buyer. If the buyer has no interest in purchasing it, Lot B will be put on the market to be sold separately. Lot C is currently being considered for sale to an interested party in the neighborhood who has expressed an interest. The Krigbaum's have been given the next option to purchase if that sale does not take place.

As a frame of reference, Hellquist asked about the lot size in the new Lincoln South Subdivision along 1st Street. It was noted that those lots average approximately 7,500 sq.

ft. Hellquist noted that the applicant is requesting approval for something that the ordinance allows him to do – the request is conforming/proper use and meets all of the city 's current criteria.

Motion by Erickson, second by Johnson, to accept the recommendation of the Planning Commission to approve the minor subdivision request. Motion carried by the following 5-2 vote: Ayes: Hellquist, Johnson, Downs, Erickson, Lehmann. Nays: Meuers, Zachman. Absent: None.

Several Councilmembers suggested some future discussion regarding rezoning of certain areas of the city to require larger "suburban residential" lots for future development.

Planning Case #2004-10 ~ Filed by Bemidji Development Corporation requesting to rezone a 51.53 acre parcel, situated in the Bemidji Industrial Park, north of Hwy 2 and east of TH 197, from I-1 (Industrial Park District) to I-3 (Heavy Industrial District). Planning Commission recommends approval with the condition that there will be a screen/buffer of trees planted between the property and the Hwy 2 bypass.

Councilmember Erickson expressed concerns about what type of business is proposed for this area as there has been some discussion about the possibility of a redi-mix plant (noisy) or hot-mix bituminous plant (smelly) locating there. Minke noted that under the I-3 zoning a hot-mix asphalt plant is not a permitted use – a redi-mix plant is a permitted use. Therefore, if the rezoning is approved and the proposed use is for a hot-mix asphalt plant, the property owner would need to go through a special use process to do that.

Motion by Zachman, second by Hellquist, to accept the recommendation of the Planning Commission to approve the request for rezoning with the condition noted. Motion carried by unanimous vote.

PRESENTATION BY MN/DOT REGARDING HWY. 197- PAUL BUNYAN TRAIL CROSSING

Mark Benson of Short-Elliot-Hendrickson (SEH) Engineering presented the findings from a study of at-grade trail crossing options for Paul Bunyan Drive. Benson noted that the #1 goal was to provide a trail crossing for the Paul Bunyan Trail across TH 197 that is as direct as possible for all trail users. An underpass was determined not to be feasible due to the high water table and utilities. An overpass was determined to be the preferred option, however funding is not currently available. The less expensive at-grade options were the object of this study. Other goals were:

- To maintain operations of the TH 197/1st Street SE intersection that are there today
- Safety for trail users
- Keep in mind that the ultimate goal is to have a grade-separated crossing (overpass).
- Meet any state or federal traffic laws.

At-grade alternatives were identified as:

- A. Crossing at 1st Street/Shevlin Avenue traffic signal
- B. Crossing 100 feet north of traffic signal
- C. Two-part crossing (Z movement) at TH 197 Median
- D. Two-part crossing at TH 197 Median

Benson reviewed the pros and cons of each alternative, with the final recommendations being:

- If a regional trail connection is made, the overpass is the preferred option
- If a regional trail connection is made and signal warrants are met, Alternative D is the preferred alternative in the interim until the overpass is funded
- If a regional trail connection is not made, Alternative A will serve local trail traffic

Recommended design features include:

- Automated pedestrian detection
- Countdown pedestrian timers
- Colored or textured pavement with striping for pedestrian crossing
- Crossing timing designed to accommodate pedestrians
- Trail signing/route signing
- Widened curb ramps (Alternative A)
- Coordination with signal at TH 197/1st Street SE (Alternative D)

Mn/DOT representative Rob Bieglow indicated that until the city knows that there will be a trail connection, Mn/DOT recommends option A. Once the trail connection is a reality, the recommendation would be for option D with signals. He noted however, that Mn/DOT will need to do a warrant count/users survey to determine whether signals for this crossing are warranted. He further noted that Mn/DOT has prepared a position statement in this regard, and the City will be provided a copy later this week.

Dick Lueben, 2024 Birchmont, asked – if the crossing is inadequate how is the volume ever going to get up to what it would be if the crossing was adequate?

Bieglow responded that the counts would not necessarily be confined to that limited area. Rather, counts would be made in nearby areas.

HRDC UDAG LOAN AGREEMENT

The council previously approved loaning UDAG funds to the HHDC for the Lincoln South Housing Project and directed staff to prepare the necessary documents. A Promissory Note and Repayment Agreement were presented for consideration by the Council. City Attorney Felix provided a summary of the terms to the agreement but noted there are some blanks that need to be completed when the information is available. He requested authorization for the Mayor and City Manager to execute the documents in substantially the form they are presented with the understanding that some minor changes will be made.

Motion by Hellquist, second by Downs, to authorize execution of the documents in substantially the form they were presented. Motion carried by unanimous vote.

KRAUS-ANDERSON REQUEST TO USE WATERFRONT FOR 2004 KRAUS-ANDERSON WALLEYE CLASSIC

Bob Fitzgerald, Kraus Anderson Marketing Director, presented a request to use the waterfront area for the 4th annual Kraus-Anderson Walleye Classic fishing tournament on Lake Bemidji. Council approved the following resolution.

RESOLUTION NO. 5138: A RESOLUTION APPROVING THE SITE FOR THE 2004 KRAUS-ANDERSON WALLEYE CLASSIC was offered by Councilmember Meuers, who

moved its adoption, and upon due second by Councilmember Erickson, was passed by unanimous vote.

NEW COMMITTEE

Mayor Lehmann proposed establishing a Public Relations Committee to keep the community better informed of city events. He recommended appointment of Councilmember Johnson as the Council representative to the committee. Motion by Meuers, second by Hellquist, to establish a Public Relations Committee and to appoint Councilmember Johnson to serve as the Council representative. Motion carried by unanimous vote.

Johnson will consider other members and activities and report back to the Council.

RESOLUTION NO. 5139: A RESOLUTION AMENDING RESOLUTION #3174 PERTAINING TO THE CITY PERSONNEL POLICY AMENDING THE DONATED LEAVE POLICY was offered by Councilmember Zachman, who moved its adoption, and upon due second by Erickson, was passed by unanimous vote.

INDUSTRIAL PARK

Based on council action on Planning Case #2004-10, earlier in the meeting Mayor Lehmann requested authorization to add the first reading of an ordinance relating to the rezoning of the 51.53 acre Industrial Park parcel. Motion by Erickson, second by Hellquist, approving the addition of this ordinance to the agenda. Motion carried by unanimous vote.

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) was given a 1st reading.

AN ORDINANCE AMENDING THE ZONING MAP ADOPTED IN CHAPTER 13, SECTION 13.08 OF THE BEMIDJI CITY CODE (Pertaining to Planning Case #2004-09, Wiebolt Properties, Inc.) was given a 2ND reading.

AN ORDINANCE ADOPTING THE ASSESSMENT POLICY was given a 2ND reading.

AN ORDINANCE AMENDING CHAPTER 6 OF THE BEMIDJI CITY CODE RELATING TO THE SALE OF PERMITTED FIREWORKS was given a 1st reading.

CHARTER COMMISSION RECOMMENDATIONS

AN ORDINANCE AMENDING SECTION 2.08 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER was given a 1st reading.

AN ORDINANCE AMENDING SECTION 2.09 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER was given a 1st reading.

AN ORDINANCE AMENDING SECTION 4.04 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER was given a 1st reading.

AN ORDINANCE AMENDING SECTION 6.05 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER was given a 1st reading.

AN ORDINANCE AMENDING SECTION 12.14 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER was given a 1st reading.

UPCOMING MEETINGS

ADJOURN

There being no further business presented for discussion, motion by Zachman, second by Meuers, to adjourn the meeting. Motion carried by unanimous vote. Meeting adjourned 9:20 pm.

Respectfully submitted

Shirley J. Sherman, City Clerk