

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – July 6, 2010

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, July 6, 2010 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, Waldhausen, Johnson, Hellquist, Downs, Negard, Meuers

Staff Present: City Manager John Chattin, City Attorney Alan Felix, City Engineer Craig Gray, Finance Director Ron Eischens, City Clerk Kay Murphy

AMENDMENTS TO AGENDA

Mayor Lehmann called for any amendments to the agenda. The following items were requested to be added to the agenda:

- Travel Authorization – CGMC Conference – Johnson
- Letter of Support for BSU as Host Site for Mn Green Corp
- Discuss Removal of “Gaea” Sculpture

Motion by Johnson, seconded by Downs, to approve the agenda as amended. Motion carried by unanimous vote.

MINUTES

Minutes of the June 21, 2010 regular meeting were presented for approval. **Motion by Negard, seconded by Hellquist, to approve the minutes as prepared. Motion carried by unanimous vote.**

CONSENT AGENDA

The following Consent Agenda items were presented for approval. **Motion by Meuers, seconded by Waldhausen, to approve the Consent Agenda items as follows:**

1. Claims submitted by the Finance Officer in the total amount of \$886,250
2. Miscellaneous 2010 Business License Renewals
3. 1 day Temporary Consumption & Display Permits:
 - Bemidji Chamber on 8/10/10 and Art Center on 8/11/10
4. Bemidji Bowl for Charitable Gambling Pull-tab site – North Country Snowmobile Club (Leah Harder sending in)
5. Garden Pub & Grill for Charitable Gambling Pull-tab site – Bemidji Baseball Association
6. Liquor License at 1111 Event Center Drive (BREC) – VenuWorks
7. **RESOLUTION NO. 5635:** Appointing Election Judges for the August 10, 2010 Primary and November 2, 2010 General Election
8. Travel Authorization - CGMC Summer Conference in Winona - August 17-19 - Mayor Lehmann & Johnson
9. Letter of Support for BSU as host site for Mn Green Corp

Motion carried by unanimous vote.

COMMITTEE REPORTS

Bemidji Youth Advisory Commission – Kevin Waldhausen reported that 25 applicants for the Commission for next school year are being reviewed.

OTHER BUSINESS

Sculpture Walk

Mayor Lehmann stated that last week the City Manager made the decision to have the beaver sculpture named “Gaea” removed from the City right-of-way after he had received complaints regarding what some perceived as an image of a “female vagina” painted on the front. Mayor Lehmann then invited comments from the audience.

Mitch Blessing, 5707 Bemidji Avenue N., stated that he is on the City’s Sculpture Walk Committee. He read a statement from the Sculpture Walk Committee regarding their

mission of promoting art in our community. He stated that the Committee reserves the right to reject art based on the following criteria 1) can it handle outdoor conditions, and 2) is the sculpture safe. The Committee believes that this is an opportunity for the City of Bemidji and the community regarding public art and they asked for a clarification on obscenity laws.

The following individuals spoke in favor of returning the sculpture to the public right-of-way:

- Brian Donovan, 1117 Lake Blvd.
- John Jorstad, 2310 Bemidji Avenue
- Kathryn Lavelle, 9655 Charles Lane
- Dr. Annie Henry, 720 9th Street
- Deb Davis, 6161 Scenic Hwy, Blackduck (artist)
- Darren Hanson, 16266 Wilkey Loop
- Linda Brown, Bemidji
- Karen Kimbrough, 2402 Bixby Avenue NE
- Pedie Pederson, 619 America Avenue NW
- William Hartwell, 1722 Lakeview
- Roy Grandbois, 12441 Roosevelt Road SW
- Donna Majava, 403 3rd Avenue SW, Tenstrike

Audrey Thayer, PO Box 123, presented a letter from Legal Counsel Teresa Nelson of the ACLU regarding removal of the “Gaea” beaver statue from being publicly displayed. The letter stated that the ACLU believed that the order to remove the statue constituted an impermissible restriction on speech and artistic expression and urged the Council to rescind the order to remove the statue and allow it to be displayed.

Dave Larson, 1322 S. Lake Irving Drive SW, stated he respected Debra Davis’ right to artistic expression but he felt that displaying the sculpture on the public right-of-way was not an appropriate location.

Councilor Meuers asked the City Manager to explain his reason for removal of the sculpture. She further stated that she felt it was censorship.

City Manager Chattin stated that the decision to remove the statue was entirely his and was made after consulting with the City Attorney and other City staff. He further stated that the City has no guidelines for the Sculpture Walk Committee which operates under the Parks & Trails Commission.

Hellquist stated that the controversy has presented an opportunity for the city to develop a process or policy to address similar situations in the future.

Motion by Meuers, seconded by Negard, directing the return of the “Gaea” Beaver Sculpture to the City right-of-way. Motion carried unanimously.

OLD BUSINESS

Easement Exchange – South Shore

Chattin stated that BEDA authorized City staff to pursue negotiations with Rich Siegert furthering the proposed exchange of easements that allow for Mr. Siegert’s hotel operations to improve, for parking purposes, a portion of the BEDA park property where the new Nymore Boat access is to be constructed. In return, the BEDA and/or City would receive an easement for an equivalent amount of property immediately adjacent on the west side of the park to be used for park purposes.

Motion by Downs, seconded by Johnson, to approve the exchange of park related easements, execution of a new storm water easement, and partial abandonment and release of an existing storm water easement with Mr. Siegert. Motion carried unanimously.

NEW BUSINESS

BREC Bid Packages 1-4

Bob LeBarron, Executive Director, stated that the City of Bemidji received bids on four (4) items in relation to the Bemidji Regional Event Center.

Motion by Hellquist, seconded by Waldhausen, to award the following bids for items at the Bemidji Regional Event Center:

Bidder	Item	Amount
Stage Right	Arena Performance Staging Plus Accessibility Lift	\$136,031.00
SICO	Fold and Roll Stage Riser	\$11,675.00
SICO	Dance Floor	\$27,227.00
Space Age	Ice Floor Cover Plus Portable Storage Units	\$118,525.00
Edward Don Company	Kitchen Smallwares	\$100,655.00
MTS Seating	Portable Ballroom Seating and Storage Carts (Upgrade to 7)	\$78,495.11
Clarín Seating	Portable Arena Seating and Storage Carts	\$155,365.00

Motion carried with the following vote: Ayes: Hellquist, Negard, Johnson, Lehmann, Downs, Waldhausen. Nays: Meuers.

Birchmont Drive Utility Project

City Engineer Gray stated that during the installation of sanitary sewer and water utilities in Shady Lane some seepage was observed from the hillside adjacent to Shady Lane and a drain was installed beneath the pavement to collect and redirect the seepage water. One homeowner (Carla Mistic) has experienced seepage of water into her basement. As a result, she filed a claim with the City’s insurance company which was denied. City staff, township officials, the insurance company, and Freeberg & Grund have been out to the area numerous times in an attempt to determine the cause of the free flowing water. Gray stated that instead of trying to solve the problem by trial and error, they have obtained a proposal from Braun Intertec for a geotechnical evaluation of the water table and surrounding area. The proposal cost is \$9,144. Northern Township has agreed to pay half the cost of this evaluation.

Motion by Waldhausen, seconded by Downs, to authorize the City Engineer to sign the proposal with Braun Intertec for a geotechnical evaluation. City will pay half the cost of the \$9,144 evaluation using city’s utility funds. Motion carried unanimously.

ORDINANCES

Pursuant to published notice, a Public Hearing was held to receive input regarding an Ordinance Amending the City of Bemidji Council-Manager Charter Amending Section 4.02 (Primary Election) to reflect recent Legislative Change of Primary Election Date. Mayor Lehmann opened the Public Hearing at 8:15 p.m., hearing no comments the public hearing was closed.

AN ORDINANCE Amending the City of Bemidji Council-Manager Charter Amending Section 4.02 (Primary Election) to reflect recent Legislative Change of Primary Election Date was given a second reading.

Liquor Amendment

Mayor Lehmann stated that staff has prepared amendments to the proposed ordinance relating to limitation of ownership of liquor licenses. The Council must unanimously adopt the new amendatory language before proceeding with the third and final reading of the ordinance.

Motion by Hellquist, seconded by Downs, to approve the amendatory language respecting limitation of three (3) on-sale intoxicating liquor licenses, and 10% ownership interest. Motion carried unanimously.

ORDINANCE NO. 56, 3RD SERIES, AN ORDINANCE Amending Section 4-51 of the Bemidji City Code relating to Limitation of Ownership of More than One Beer, Wine or On-Sale Intoxicating Liquor License was given a final reading and passed by unanimous vote.

LIBRARIAN’S REPORT

Paul Ericsson, Branch Manager, provided an update on recent activities at the Bemidji Public Library. He stated that the library is busy. The summer reading program has 300 children signed up.

CITIZEN NOT ON AGENDA

Erika Bailey-Johnson, Sustainability Committee, reported that the Committee will be meeting on July 7 at 6:30 p.m. in the Chambers with Boonestroo regarding feedback on solar energy feasibility at south shore.

UPCOMING COUNCIL MEETINGS

- Monday, July 12 5:30 p.m. Work Session – Audit Presentation & City’s Revolving Loan
- Monday, July 19 7:00 p.m. Council Meeting
- Monday, July 26 5:30 p.m. Work Session – CGMC Update & Job Study Presentation by Springsted

COUNCIL/STAFF REPORT

- Council members provided updates on current events and meetings.
- Gray provided an update on the lack of trail signage on Rako and 1st Street. He stated that the Parks & Recreation Director will be discussing this further at the Parks & Trails Commission meeting.
- Eischens noted that the Council will be discussing the Liquor Store Operations at an upcoming work session.

ADJOURN

There being no further business, motion by Downs, seconded by Johnson, to adjourn the meeting. Motion carried. Meeting adjourned at 8:45 p.m.

Respectfully submitted,



Kay M. Murphy
City Clerk