

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

August 18, 2003

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, August 18, 2003, at 7:00 p.m. in the City Hall Council Chambers, Mayor Lehmann presiding.

Upon roll call, the following Council members were declared present: Erickson, Hellquist, Zachman, Meuers, Lehmann, Downs, Johnson. Absent: None.

APPROVAL OF MINUTES

Minutes of the August 4, 2003 Regular Meeting and August 11, 2003 Work Session 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.

Mayor Lehmann called for any amendments to the agenda. There being none, motion by Downs, second by Erickson, to accept the agenda as presented. All voted aye. Motion carried.

CONSENT AGENDA

The consent agenda was presented for approval. Mayor Lehmann called for approval. Motion by Hellquist, second by Zachman, to approve the following consent agenda items. All voted aye. Motion carried.

- 1) Approved Temporary Liquor License for North Country Hospital Annual Banquet to be held at BSU Beau Arts Ballroom
- 2) Approved Northview Manor 2004 Operating Budget
- 3) Approved **Resolution No. 5070** Renewing Gambling Permit for Moose Lodge
- 4) Approved **Resolution No. 5071** Accepting Petition for Annexation – 1815 Division Street W (Burnham)
- 5) Approved **Resolution No. 5072** Accepting Petition for Annexation – 814 Anne Street (Vista North Townhomes)
- 6) Approved Fourteen (14) Pages of Claims in the total amount of \$604,729.27
- 7) Ratified Reimbursement Agreement with the Transportation Security Administration – *This agreement provides reimbursement to the City for costs associated with providing security at the airport for 2003-2007; has a total value of \$1.8 million; requires approximately 12 hours per day of officer time; can be cancelled by either party with 30-days notice.*

COMMITTEE REPORTS

BEMIDJI YOUTH ADVISORY COMMISSION

Teresa Elhard reported that the trip to the north shore went well. Nine members went on the trip including some of the new members. Elhard noted this is her last meeting, as she will be leaving soon to attend University of Minnesota-Duluth. Mayor Lehmann expressed appreciation for Elhard's participation in the commission for the past two years.

Tricia Andrews noted that the BYAC would like to have a joint meeting with the Council to help set goals for the coming year. The commission will meet this week and come up with some options for meeting dates.

PUBLIC WORKS COMMITTEE

Hellquist reported that the Public Works Committee met on August 8, 2003, to discuss the rate of interest to be charged for unpaid special assessments. Hellquist noted that earlier this year there had been some discussion about setting the rate at 1-1/2% plus prime so it would fluctuate. During discussion, the committee learned that the length of time for repayment and the deferments are key factors in determining the interest rate.

The consensus of the committee was to recommend to the Council to leave the interest rate at 8 percent. It was noted that the Council could officially accept that position when they approve the improvement resolutions presented later in the agenda.

PLANNING CASE #2001-15: Filed by the Headwaters Housing Development Corporation Lincoln South (Second Addition) Planned Unit Development/ Special Use Permit – Preliminary & Final Plats ~ Headwaters Housing Development Corporation (H.H.D.C.), requesting to plat 27 additional single-family residential parcels on the west side of Gould Avenue SE and north of First Street SE. The size of the entire property is about 14 acres. The City Council approved a plat for the first six parcels in this subdivision in 2001. Planning Commission recommended approval of the Lincoln South First Addition, Preliminary Plat received July 22, 2003, including 27 additional single family residential parcels, and all or a portion of Outlot A to be used for open space or storm water management use, depending on the results of the City Engineer's findings and recommendations, with the following conditions: the Final Plats will include final street designs, final water and sewer designs, final storm sewer management system designs, and new street names. Motion by Johnson, second by Erickson, to accept the recommendation of the Planning Commission to approve the request with conditions noted. Motion carried by the following vote: Ayes: Downs, Erickson, Zachman, Lehmann, Meuers, Hellquist, Johnson. Nays: None. Absent: None.

PLANNING CASE #2003-18: Filed by Frank Hickerson, requesting two variances to build a new garage on his commercially zoned property situated at 800 Washington Avenue SE. He proposes to situate the garage eight feet from the south, or side property line - ten feet is required - therefore, a two-foot side yard setback variance was requested. The building is also proposed to be in line with this existing building, or ten feet from the rear property line - 20 feet is required - therefore, a ten foot rear yard setback was requested. Planning Commission recommended approval of the ten-foot rear yard and two-foot side yard setback variances as requested. Motion by Downs, second by Meuers, to approve the variances as requested. Motion carried by the following vote: Ayes: Johnson, Hellquist, Meuers, Lehmann, Zachman, Erickson, Downs. Nays: None. Absent: None.

PLANNING CASE #2003-19: Filed by the City of Bemidji to rezone a recently annexed 2.3 acre parcel owned by Steve Hill, situated at 1705 Anne Street NW from R-1 (Single-Family Residential – Unsewered) to B-4 (Heavy Business). Planning Commission recommended approval of the rezoning request as presented. Motion by Downs, second by Erickson, to approve the rezoning request. Motion carried by the following vote: Ayes: Lehmann, Meuers, Zachman, Hellquist, Erickson, Johnson, Downs. Nays: None. Absent: None.

PLANNING CASE #2003-20: Filed by City of Bemidji to rezone numerous recently annexed parcels situated in Bardwell Park and HiWay Acres from R-1 (Single-Family Residential – Unsewered) to B-4 (Heavy Business) and R-3 (Single-Family Residential). Planning Commission recommended approval as follows:

- a) Rezone the recently annexed parcels north of Anne Street NW to R-5 (Multiple-Family Residential), the same as the adjoining Dickinson property, and
- b) Rezone the parcels south of Anne Street NW and those in HiWay Acres to B-4 (Heavy Business).

Motion by Hellquist, second by Johnson, to approve the rezoning as noted above. Motion carried by the following vote: Ayes; Erickson, Hellquist, Zachman, Meuers, Lehmann, Downs, Johnson. Nays: None. Absent: None.

PLANNING CASE #2003-21: Filed by James George, Jr., requesting five variances to build a new two story addition and an attached garage with a family room above onto his home situated at 510 Woodland Avenue SW. The requested variances are as follows:

- a) The attached garage / family room addition is proposed to be situated about 10 feet from the front property line, a 30 foot setback is required, therefore, a **20 foot front yard setback variance** is requested.
- b) The garage / family room addition and the second floor addition will be situated about 19 feet (closest point) from the ordinary high water mark of Lake Irving, thus continuing the existing setback from the lake. A 50-foot lakeside setback is required, therefore, a **31-foot lake side setback variance** is requested.

- c) The garage / family room addition is proposed to be situated two-feet from the west property line (side yard). A seven and one-half foot side yard setback is required, therefore, a **five and one-half foot side yard setback variance** is requested.
- d) The second floor addition will be situated directly above the existing house, or about six-feet from the east property line. A seven and one-half foot side yard setback is required, therefore, a **one and one-half foot side yard setback variance** is requested.
- e) The 30 percent maximum allowable lot coverage will be exceeded with the proposed addition therefore **a variance is requested for the proposed lot coverage**. The exact lot coverage is difficult to calculate due to the current lot size for this older lake lot not being available. The lot is in the process of being surveyed.

Planning Commission recommended approval of the five variances as requested, with the condition that the two older sheds currently situated on the property be removed.

City Planner Oakes noted that a lot survey had been completed since the Planning Commission meeting. The survey showed that variance "c" noted above is not necessary as the proposed construction meets the set back from the west property line. However, variance "d" must be amended as follows:

The second floor addition will be situated directly above the existing house, or about ½ foot from the east property line. A seven and one-half foot side yard setback is required, therefore, a seven-foot side yard setback variance is requested.

Motion by Hellquist, second by Zachman, to approve the four variances as modified (eliminate "c" and modify "d" as above). Motion carried by the following vote: Ayes: Zachman, Meuers, Lehmann, Downs, Johnson, Erickson, Hellquist. Nays: None. Absent: None.

UNFINISHED BUSINESS

REPORT ON STATE AUDITOR PERFORMING CITY AUDIT

At the August 4th meeting the council directed city staff to research the feasibility of the State Auditor performing the City of Bemidji audit. After speaking with Greg Hurlinger of the State Auditor's Office, Finance Director Eischens learned that the state does audits for a few cities such as Minneapolis, St. Paul and Duluth but typically doesn't do audits for other cities unless there is a citizen petition or if a city is in financial or management distress. Eischens restated his recommendation to authorize an extension of the two-year contract the city currently has with Miller, McDonald, Erickson & Moller. Motion by Erickson, second by Downs, to approve the two-year contract extension for audit services from MEMM and a request for proposals after that. Motion carried by the following vote; Ayes: Meuers, Hellquist, Johnson, Downs, Erickson, Zachman, Lehmann. Nays: None. Absent: None.

CONSIDERATION OF AMERICAN RED CROSS LEASE OF SPACE IN THE FORMER MN/DOT BUILDING

A proposed three-year lease of space in the former MN/DOT building was presented for council approval. Councilmember Zachman asked about maintenance of the grounds. Minke responded that the tenant would be responsible to maintain the grounds. Motion by Zachman, second by Meuers, to approve the three-year lease agreement in the amount of \$1,100 per month. Motion carried by the following vote: Ayes: Hellquist, Meuers, Lehmann, Johnson, Downs, Erickson, Zachman. Nays: None. Absent: None.

(The following resolutions were pulled from the August 4th agenda pending a recommendation from the Public Works Committee with regard to the interest rate for Special Assessments.) Motion by Hellquist, second by Erickson, to approve Resolution No. 5073, No. 5074, No. 5075, and No. 5076, noting the interest rate at 8% over a 15-year period. Motion carried by the following vote: Ayes: Lehmann, Hellquist, Downs, Johnson, Erickson, Zachman, Meuers. Nays: None. Absent: None.

RESOLUTION NO. 5073: A Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment Rolls for City Project #02-03 (15th Street Portion of 2002 Street Improvements).

RESOLUTION NO. 5074: Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment Rolls for City Project #03-09 (15th Street Water – America to Minnesota).

RESOLUTION NO. 5075: Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment Rolls for City Project #03-05 (Rako Street & South Water & Sewer).

RESOLUTION NO. 5076: Resolution Declaring Cost to be Assessed and Ordering Preparation of Proposed Assessment Rolls for City Project #02-14 (Irving Oaks Street Improvements).

Discussion: Shoreland Ordinance Amendment

On August 11th the city council held a work session with the DNR to discuss the proposed amendment to the shoreland ordinance. During the work session, the DNR responded favorably to portions of the amendment but took exception to modifications relating to Commercial Planned Unit Development (PUD). At the conclusion of the work session, DNR expressed interest in having an ongoing dialogue with the council and encouraged council to develop and submit alternatives on the commercial PUD.

In a memorandum to the council, Minke outlined seven significant issues and suggested strategies on how to move forward to consider and resolve those issues. He suggested the council go through each of the issues and decide whether they agree with what is proposed in the amendment or not. He also suggested that the council consider whether they want to try to come up with some alternatives to the proposed amendment before the DNR completes their review.

Mayor Lehmann noted that the council has the option of discussing those issues in depth at this meeting, or asking the shoreland sub-committee to revisit some of the issues, or to set another council work session to discuss the issues as outlined. Meuers suggested a joint work session with the council and the shoreland sub-committee. Motion by Meuers, second by Erickson, to schedule a joint meeting for Monday, August 25, 2003 at 5:30 p.m. Motion carried by the following vote: Ayes: Hellquist, Downs, Johnson, Meuers, Zachman, Lehmann, Erickson. Nays: None. Absent: None.

NEW BUSINESS

Extension of Grant from Department of Employment and Economic Development for Lincoln School Area Rehabilitation Project

In March 2000, the City was awarded a grant from Minnesota Department of Employment and Economic Development to assist with the rehabilitation of fifteen substandard owner-occupied housing units and to assist moderate income home buyers purchase newly built single-family homes in the Lincoln School area. City Manager Minke noted that the grant agreement terminates in September 2003 and there are unexpended funds. He recommended that the council authorize city staff to request a one-year extension of the grant and if the extension is approved by DEED, authorize extension of agreements with HRDC and Bi-CAP extending the agreements for grant administration for one year. Motion by Hellquist, second by Erickson, to authorize the application for an extension of the DEED Lincoln School area project grant and, if approved, authorization to extend the agreements with HRDC and Bi-CAP for one year. Motion carried by the following vote: Ayes: Downs, Erickson, Zachman, Lehmann, Meuers, Hellquist, Johnson. Nays: None. Absent: None.

Northview Manor Operations

In the early 1990's the City built Northview Manor, 1805 30th Street NW, a 60-unit senior apartment building and contracts with a management company for the day-to-day operation of the facility. In the early years, the project had problems cash flowing and the city had to make up the shortfall. In 1999 the city refinanced the bonds reducing the annual payment. The project has cash-flowed since that time and the project has maintained a low vacancy rate. Recently Greater Minnesota Management (GMM) inquired if the city was interested in selling the project. GMM is a not for profit housing agency that owns and manages properties in northern Minnesota. Minke suggested that the council discuss the issue and provide some direction. Council reached consensus that the city should consider getting out of the housing business and should follow up on the proposal by GMM to share in the cost of an appraisal. Motion by Erickson, second

by Johnson, to authorize an appraisal of the building and to accept the offer by GMM to share one-half of the cost for the appraisal. Motion carried by the following vote: Ayes: Johnson, Hellquist, Meuers, Lehmann, Zachman, Erickson, Downs. Nays: None. Absent: None.

ORDINANCE 346, 2ND SERIES: AN ORDINANCE AMENDING CHAPTER 5 OF THE BEMIDJI CITY CODE ENTITLED, "BEER, WINE AND LIQUOR LICENSING AND REGULATION" BY AMENDING THE PROVISIONS RELATING TO PERMISSIBLE HOURS AND DAYS OF BEER AND LIQUOR SALES, AND BY ADDING A PROVISION PROHIBITING THE OFF-SALE OF MALT LIQUOR PRODUCED ON THE LICENSED PREMISES OF A BREWER LICENSED UNDER MINNESOTA STATUTES §340A.301, SUBD. 6(d) was presented for the final reading. Mayor Lehmann acknowledged receipt of communication from John Mussehl, General Manager of the Hard Times Saloon, opposing the passage of this ordinance based on the argument that an additional hour (between 1 am and 2 am) would help to increase his food sales to meet the minimum requirement to retain a liquor license. There being no other comments, the third reading was held and the ordinance passed by the following vote: Ayes: Lehmann, Meuers, Zachman, Hellquist, Erickson, Johnson, Downs. Nays: None. Absent: None.

AN ORDINANCE Amending the Bemidji City Code Fee Schedule was given a second reading.

AN ORDINANCE Annexing Property Along Division Street W to the Corporate Limits of the City of Bemidji (1815 Division Street W – Burnham Property) was given a first reading.

AN ORDINANCE Annexing Property Along Anne Street NW to the Corporate Limits of the City of Bemidji (814 Anne Street NW – Vista North Townhomes LLC) was given a first reading.

CITIZENS WITH BUSINESS BEFORE THIS COUNCIL – NOT ON AGENDA

Ed Haugen, 500 Irving Beach Drive, presented a petition signed by residents in the Irvingboro neighborhood opposing the operation of Southside Towing in a residential neighborhood, requesting that the business be re-located to a more suitable place, even if the city must exercise eminent domain. Haugen asked what the city could do to make that happen.

It was noted that the business was grandfathered in when the Irvingboro Neighborhood was developed. City Planner Oakes noted that the area was zoned industrial until the Irvingboro development. Since that time, the business has been a legal non-conforming use, which cannot be expanded but can be allowed to continue.

Haugen questioned whether the use has changed, noting that he understood the business was grand-fathered in as a auto repair facility, not an impound lot/junkyard for wrecked vehicles. City Attorney Felix noted that the City and County have used Southside Towing as a storage and impound lot for many years prior to the Irvingboro development. He surmised that the business has always been as it is today.

Haugen noted that the business operates demolition equipment at odd hours, creating a neighborhood disturbance. He also questioned the environmental impact of fluids leaking from wrecked vehicles, noting that the area is only 600-feet from the lakeshore. The council did not express interest in exercising eminent domain. It was suggested that the city could contact the business owner regarding the concerns expressed, but it was noted that the decision to sell or move is up to the property owner.

NOTICE OF UPCOMING MEETINGS

August 25, 2003	5:30 p.m.	Joint meeting with shoreland sub-committee
September 8, 2003	5:30 p.m.	Budget work session

COUNCIL/STAFF REPORTS

Downs noted that the Paul Bunyan Trail Crossing Committee met on August 16, 2003. He noted that discussions are continuing for pursuing the sales tax initiative in the next legislative session.

Johnson discussed a problem with vehicles parking for long periods of time in Lot 9 with "FOR SALE" signs. The issue was referred to the Police Department. He also suggested the council move forward with some regulation, which would impose a fine on multiple/repeat police calls for disturbances at residences within the city. He suggested that city staff draft a nuisance ordinance for council consideration. Felix noted that he will work with the City Manager and Public Safety Director to provide some direction. He noted that this is an uncharted area – some cities have passed ordinances but are backing out when it comes to enforcement – there is no specific statutory authority to directly charge as there is with fire calls.

Meuers reported that the Boys and Girls Club board will appoint the executive director for the club this week. The club will ultimately be located at the old high school, but will be temporarily located at the Seventh- Day Adventist building until renovations at the old high school are complete. The Bemidji Area Boys and Girls Club Founders Dinner will be held on Wednesday, August 27th.

Oakes reported an influx in new housing construction - he has reviewed 10-11 permits during the past week. He also noted that the Planning Commission will begin work on a Green Space Ordinance – probably at the September Planning Commission meeting.

ADJOURN

There being no further business presented for discussion, motion by Downs, second by Johnson, to adjourn the meeting. All voted aye. Motion carried. Meeting adjourned 8:40 p.m.

Respectfully submitted

Shirley Sherman, City Clerk