

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – July 20, 2009

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, July 20, 2009 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, Finance Director Ron Eischens, Community Development Director Rita Albrecht, City Clerk Kay Murphy

AMENDMENTS TO AGENDA

Mayor Lehmann called for any amendments to the agenda.

- Council Waldhausen requested that the Carnegie Building Reuse be discussed at a future work session with the Council, Art Council and HPC
- Move Business Licenses to New Business for Discussion – City Clerk 10a

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

MINUTES

Minutes of the July 6, 2009 regular meeting, July 6, 2009 Special BEDA meeting and July 13, 2009 work session were presented for approval. **Motion by Johnson, seconded by Negard, to approve the minutes as amended. Motion carried by unanimous vote.**

CONSENT AGENDA

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

1. Claims submitted by the Finance Officer in the total amount of \$3,936,618.63
2. Appointed Rachelle Houle to the Heritage Preservation Commission Issued
3. Audit Request for Proposal
4. Bid for Irving Access Loop SW – (JD Hanson & Sons \$63,946.45)
5. Amendment No. 1 to Kimley-Horn Contract for City Park – Not to Exceed \$35,000
6. Waived Building Permit Fees – Habitat for Humanity

Motion carried by unanimous vote.

PRESENTATION

JEDC Update of Activities

Larry Young, Director, provided an update on current activities of the Joint Economic Development Commission (JEDC). He stated that the JEDC has been addressing availability of timber for area mills and have met with the County timber resource managers in Beltrami, Cass, Hubbard and Clearwater counties. In addition, the JEDC has met with the Chippewa National Forest Supervisor and staff regarding wood availability. Mr. Young stated that due to their efforts the mills in the area are operating on a full schedule. The JEDC continues to recruit outside businesses and has received a \$35,000/2 year grant from the Neilson Foundation for BSU/BHS Alumni business recruitment program. The JEDC has partnered with the Chamber and met with several local businesses on expansion and retention of businesses within the community. He stated that Synergy Solutions has expanded their operations and hired 40 new full-time positions in the JEDC-owned building since January 2009.

NEW BUSINESS

Redevelopment Fund Discussion

Mayor Lehmann stated that Rita Albrecht, the Community Development Director, has asked for assistance from two councilmembers to attend informal discussions on utilizing or

lending redevelopment funds in our community. Mayor Lehmann recommended Downs and Hellquist be appointed to participate in the discussion.

Motion by Meuers, seconded by Johnson, to appoint Hellquist and Downs to the appoint Councilmember Hellquist and Councilmember Downs to the group to discuss redevelopment funds. Motion carried unanimously.

Bemidji Historic Registry

Albrecht stated that as part of the City's ordinance the HPC has created a list of city-owned buildings.

Lehmann asked what future financial obligations will the city occur if these city-owned properties are placed on a register.

Albrecht stated that the intent is to create a list to add to the historic character of the City. She did not believe that it tied the City's hands to improvements to the property.

Motion to Hellquist, seconded by Meuers, to postpone the decision on this item and include it with a work session with the Heritage Preservation Commission. Motion carried with the following vote: Ayes: Hellquist, Meuers, Lehmann, Downs, Johnson, Negard. Nays: Waldhausen.

Business Licenses

City Clerk Kay Murphy asked that this item be removed from the consent agenda. The first license is for a livestock permit for chickens. The applicant plans to have 100 chickens and Officer Charboneau is working with the applicant and will be making recommendations for or against approval. In addition, the Wise Man Gold's background check has not been completed by the Police Department. The City Clerk recommended that the Council approve the licenses based on the Police Department's recommendations and/or conditions.

Motion by Hellquist, seconded Johnson, to approve the business licenses for Wise Mans Gold and Sam Kava based on the recommendations from the Police Department. Motion carried unanimously.

OLD BUSINESS

Depot Maintenance

Felix stated that, with the oversight of city-owned buildings transitioning from the former Public Works Director to the Building Official, a question of payment responsibility regarding several recent heating, ventilation and air conditioning maintenance/repair bills has arisen. The City leases the Depot building to the Beltrami County Historical Society and under Paragraph V of the lease the Historical Society was responsible for payment of the annual BNSF lease payment (as their rent), for furnishing heat, lighting and refuse disposal and for proper day to day maintenance and repair. Under that same provision, the City is responsible for major structural repairs of the licensed premises, including the repair or replacement of systems such as the air conditioning system, and payment of the cost, unless otherwise negotiated by and between the parties and reduced to writing as an amendment to the lease. Felix stated that the issue is whether these charges are or should be considered day to day maintenance and repairs, or major system repair or replacement under the City's responsibility.

Hellquist asked if the City paid for the day to day maintenance, would those costs come under the city's donation policy.

Chattin stated as long as the Council followed the guidelines of the State Auditor establishing that the expense is for a public purpose, they could be covered costs. Chattin stated that the real issue is: does the City Council want to pay the day to day maintenance costs? The argument from the History Center is that the City has been paying it to date and their interpretation is that these items should be paid by the City. He suggested that if the City continues to pay these costs, the lease should be amended.

Discussion continued regarding the Construction Grant and Disbursement Agreement (MHS Agreement) and requirements under that grant.

Waldhausen asked if switching the furnace from heating to cooling would require a technical person or hiring someone.

Felix stated that it is typical to have a maintenance agreement with someone to take care of the furnace because it is a boiler system and we have no one on city staff with that license.

Discussion continued regarding leases for other city-owned buildings. Eischens stated that the Curling Club had this very same issue a number of years ago and it was the decision at that time not to pay for routine maintenance. However, there are some shared facilities which made it unique.

Chattin stated that staff is pulling all the city-owned property leases for review and to ensure we are following the agreements.

Motion by Negard, seconded by Hellquist, clarifying the Depot Lease that the day to day maintenance costs are to be paid by the Beltrami County Historical Society. Motion carried unanimously.

ORDINANCES

Interim Ordinance Establishing a Temporary Moratorium on the Issuance of New Rental Registration Licenses for Single Family Homes

Mayor Lehmann noted that the following letter was received in favor of a moratorium: Jason Douglas, Bixby Avenue Resident. The following letters were received opposing the moratorium: Darla Desautel, Sun Real Estate Realtor; Mark Dickinson, Century 21 Realtor; Valerie Bruns, Board of Realtors; Ben Hein, 621 Scott Avenue SE.

Waldhausen stated that as a resident in the BSU area, part of his support of this item was the protection of BSU students. He stated that he supports the moratorium because the neighborhood structure is changing. It is not about being a nuisance but preserving the neighborhoods.

Negard stated that he is in favor of looking at all the aspects of single family rentals throughout the City. His ward does not have the impact as those closer to BSU. He does not blame just rentals but there is a lack of pride by many people in the community. A number of people need to rent and some do not want to own a home. He cautioned the Council not to take a short cut to solve the problem and not to address just the density issue. He stated that the best thing would be for everyone to take more pride in their homes.

Johnson commented that density is just one piece of a bigger problem. There are a number of things that could help, i.e., partnerships with BSU, housing and enforcement. He noted that a number of towns are looking at this and there are a number of things that could be looked at and a moratorium will give the City time to develop a solution to the problem.

Downs commented that the blight is not caused by just rentals and suggested that a citizen's advisory group be formed to develop a plan.

Pursuant to published notice, a Public Hearing was held to receive input regarding establishing a temporary moratorium on the issuance of new rental registration licenses for single family homes within the City. Mayor Lehmann opened the Public Hearing at 7:47 p.m.

Andy Thienes, President of the Bemidji Board of Realtors, strongly recommended that the Council vote no for the moratorium on rentals. He stated that this is not the time to cut off this important part of the real estate market. Currently, there are 150 active residential homes for sale and the average time on the market is 155 days (which is a long time) and some are over 300 days. He stated that 76 homes have been sold in Bemidji since January and, of those, 21% are foreclosures. He stated that if the homes did not sell, there would be a number of homes vacant in Bemidji which could result in an increase in crime, vandalism, etc. He suggested that the alternatives are to enforce the current rental code, study the affect of having more teeth in the rental code, or create more incentives to encourage homeownership. There will be no taxes paid if the property is vacant. He suggested potential down payment grants for homeowners to improve their homes and partnering with other groups to improve the housing in Bemidji. The market is improving but if you cut out a vital part of the market, potentially those become more foreclosures.

Mayor Lehmann stated that the interim moratorium does not apply to cases of unique hardship deemed appropriate by the Council, which may grant a rental registration license by motion.

Mr. Thienes stated that investors will go elsewhere if they see this provision. He stated that investors would normally remodel a home and bring it up to the rental code requirements. Discussion continued on preserving the neighborhood and enforcement issues.

Dirk Fisher, 48805 County Road 36, Laporte, rental owner and realtor, stated he is opposed to the moratorium as buyers will be eliminated from the neighborhood and it will change the demand and cause less value. He is in favor of a study.

Jutta Goetz, 3280 Greenbriar Lane NE, stated that they own rentals in Bemidji, they take care of their rentals and take it very seriously. In the past 5 years they have had 100% occupancy. She stated that there is a need for rentals in the community and rents to students. Where is the liberty, she commented, in saying that when they purchase a home and keep up the home, why should they be punished because somebody doesn't like living in a neighborhood with a lot of students or renters. Just because it is homeowner occupied it does not mean that the home is being taken care of any better. She is opposed to the moratorium because it infringes on her rights and the city needs to enforce the codes already in place.

Karen Tolkinen, 4826 White Tail Road NE, was opposed to the ordinance but agreed it is a complex issue. She stated that this is a heavy tactic to use on new rentals and it is a mistake to extend it across the whole community. As a rental owner, there are restrictions by the state to get rid of bad tenants and would like to see some of those changed. She suggested that the Council look at it further before using a moratorium.

Jerry Snable, 2020 Birchmont Drive NE, was strongly in favor of the moratorium, if for no other reason, than to give the City time to think about it and do real studies. Mr. Snable stated that the City is in trouble because it is beginning to look like a slum. The City has to determine what it wants to be.

Amy Shimkus, 10713 Bemidji Road NE, owns a home on Bixby and recently turned it into a rental unit. She stated that they were unable to afford two house payments and they turned the home into a rental after it was on the market for 12 months. She stated that it is her responsibility as the landlord to have appropriate renters and ensure that they are law abiding. It is not the responsibility of the City to say that there are too many rentals. The change occurs with relationships and the change occurs in the neighborhoods. She stated that some great neighbors are college students and other renters. As a buyer of real estate, you pick what neighborhood you want to live in and accept what is there. She stated that she disagrees with the moratorium.

Adam Smith, 43731 County Road 45, Laporte, stated that he is a property investor and weighs all the options when he considers purchasing property. He stated there are other places to invest his money. He stated that he opposes the moratorium.

Paul Hofland, 4956 Carver Road NE, landlord and investor, stated that he is very upset from the other side. He takes care of his properties and the homes next to his rentals are not kept up. The house next door is homeowner occupied and not kept up. His tenants have stayed 9 to 10 years. He agreed that the study needs to be done but it is not a one sided deal. There are people that need good homes. He disagreed with the moratorium.

Patrick Flemwell, 1008 12th Street NW, purchased a home that has been vacant for approximately a year. He questioned what his incentive is to bring the home up to code if his job moves out of town. The other issue is that he has a son and a daughter that live in this community. A moratorium in this community is an open license to raise rent. It is discrimination against a lower income class of people that are not represented because they do not have a voice in our community. He stated that urban blight is an enforcement issue and he does not understand the process of thought to put a moratorium on further rental properties in this community. He stated that it made no fiscal, economic or social sense to him.

Tom Peterson, 2801 Arrowwood Circle NE, owns two family rental properties in Bemidji. The first thing he did when he saw that the City was considering a moratorium was get a rental permit for a home that he has been trying to sell and may get it back. He stated that he is against the moratorium.

Jenny Linbow, 2392 Scorpio Lane NE, stated that she feels picked on because she is a renter and a BSU student. Students her age cannot afford to own a house yet. She stated that putting a limit on renters within the community is not a good idea and BSU students are

worthwhile to invest in our community. She commented that by restricting the number of people that can rent or have a good place to rent will result in the price of rentals increasing.

Darla Desautel, real estate broker, stated that she is not in favor of the moratorium and commented that stronger enforcement of rentals is part of the solution. She discussed problems on 10th Street and the lack of enforcement.

Dan Hess, 1014 Minnesota Avenue NW, commented that there could be a number of people that may have to get a hardship permit and found it hard to believe that the Council would want to review all the applications. He stated that there will be an increase in rental applications before the moratorium takes effect. He strongly encouraged the Council do a study and not a moratorium. He suggested that it could be a “takings” issue.

Paul Stoltz, 2710 Countryside Lane NE, stated he is under employed and may have rent his property if he gets a job elsewhere. He stated that complaints by few does not justify creating an ordinance that will affect thousands and asked how many complaints were received.

Councilor Johnson stated that he has received calls over the nine years that he has been on the Council. He observed that when there are a lower number of rentals on a block they conform to the neighborhood but when there are more they conform to the rentals. It is not an attack on BSU students.

Mr. Stoltz asked why the city is doing moratorium and why not a study.

Walter Lindahl, 920 3rd Street SE, stated that he owns a rental and feels that more enforcement is needed. He suggested that the ordinance needs to be toughened up but the density issue by BSU will not go away. He further stated that foreclosures are not going away anytime soon. He is against the moratorium.

Wendy Giles, real estate agent, asked if the will the council is prepared to accept the rental applications and choose if a property will be allowed based on where it is located? She asked the Council if they would be prepared for a lawsuit as this could be discriminatory. She stated that the Council is stripping away a property owner’s right to use their property.

City Attorney Felix stated that the moratorium is a suspension of the acceptance and consideration of rental registration permits during the moratorium. The City will not be accepting any rentals unless they come under the hardship exceptions.

Joanne Henningsgard, 1520 Bixby Avenue NE, stated that the character of her neighborhood has changed. However, if she lost her job, the moratorium could affect her. She stated that she is “straddling the fence” as far as the moratorium.

William Hartwell, 179896 Century Lane, stated that he bought an investment property for a rental. He stated that the Council has made decisions that affect neighborhoods, in particular, the event center. He stated that from all the statistics he has seen, the City of Bemidji needs more moderate income property. He opposed the moratorium.

Marcy Plumwell, 1223 Norton Avenue NW, stated that some of the homes that are available for purchase are in poor condition and there is no money for upkeep.

Mayor Lehmann closed the public hearing at 8:57 p.m.

AN ORDINANCE establishing an Interim Ordinance Establishing a Temporary Moratorium on the Issuance of New Rental Registration Licenses for Single Family Homes within the City of Bemidji was given a second reading.

Pursuant to published notice, a Public Hearing was held to receive input regarding Amending an Uncoded Section of Bemidji City Code Pertaining to Street and Alley Vacation (Bemidji State University). Mayor Lehmann opened the Public Hearing at 8:58 p.m., hearing no comments the public hearing was closed.

AN ORDINANCE Amending an Uncoded Section of Bemidji City Code Pertaining to Street and Alley Vacations (Bemidji State University) was given a second hearing.

Pursuant to published notice, a Public Hearing was held to receive input regarding Amending an Uncoded Section of Bemidji City Code Pertaining to Street and Utility Easement Vacations (Portions of River Park Court NE - Halper-Amundson). Mayor

Lehmann opened the Public Hearing at 8:59 p.m., hearing no comments the public hearing was closed.

AN ORDINANCE Amending an Uncoded Section of Bemidji City Code Pertaining to Street and Utility Easement Vacations (Portions of River Park Court NE - Halper-Amundson)

Pursuant to published notice, a Public Hearing was held to receive input regarding Amending an Uncoded Section of Bemidji City Code Pertaining to Street Vacation (Nymore Beach Road). Mayor Lehmann opened the Public Hearing at 9:00 p.m., hearing no comments the public hearing was closed.

AN ORDINANCE Amending an Uncoded Section of Bemidji City Code Pertaining to Street Vacation (Nymore Beach Road) was given a second reading.

ORDINANCE NO. 39, 3RD SERIES, an Ordinance Amending an Uncoded Section of Bemidji City Code Pertaining to Alley Vacation (North Country Hospital/Ours to Serve House of Hospitality) was given a final reading and passed by unanimous vote.

EVENT CENTER UPDATE

Clinton Gronhovd, Kraus-Anderson, provided an update for the Council on current Event Center activities. Work continues on utilities, soil corrections, footings, foundations, steel erection, etc. 1st Street will be open by the end of August. He stated that key items are the August 5 for the site tour at 5:30 p.m. and the neighborhood meeting is at 6 p.m. on August 6 at City Hall. Gronhovd introduced Jerry Domino who will be working for Kraus on this project.

Mayor Lehmann asked for clarification on the change orders. He questioned why the change orders are necessary and was concerned about the amount.

Gronhovd stated that the major changes are related to the Nymore Pond, the height of the storm sewers and the size of the pipe serving the units.

Downs asked that Kraus-Anderson provide a written explanation regarding the change orders.

Hellquist stated that it is Kraus' job to watch the job and asked if there were any red flags.

Gronhovd stated that this is not an abnormal amount for change orders and they have been reviewed. He stated that 40 percent of the change orders are related to environmental issues. He stated that Leo A Daly, WSN and city staff review all change orders. The City Engineer is the go to person regarding the site work and the City Manager oversees the building.

Council directed Kraus-Anderson to provide a written explanation on future change orders.

Motion by Hellquist, seconded by Johnson, to approve Change Order (Update #3) in the amount of \$688,852.18. Motion carried with the following vote: Ayes: Hellquist, Lehmann, Waldhausen, Johnson. Nays: Downs, Negard, Meuers.

Hellquist asked what would have happened if the vote had not passed. Chattin responded that most of the work had been completed and reviewed by staff with Kraus Anderson.

CITIZEN NOT ON AGENDA

No one appeared.

UPCOMING MEETINGS

- Monday, July 27 5:30 p.m. Work Session – Cancelled
- Monday, August 3 7:00 p.m. Council Meeting
- Monday, August 10 5:30 p.m. Work Session – 2010 Budget
- Monday, August 17 7:00 p.m. Council Meeting
- Monday, August 24 5:30 p.m. Work Session - Annexation

COUNCIL/STAFF REPORT

- Waldhausen suggested that the Work session on July 27 could be regarding the HPC request and will work with the City Clerk in this regard.
- Downs stated that the 5th Annual Paul Bunyan Trail ride is on August 6 which will be going to Guthrie on the newly paved trail.
- Waldhausen stated that there are activities at Diamond Point Park on Thursday evenings for families. Heritage Preservation Commission is looking forward to working

with the Council on establishing historic landmarks. The numbers at the Boys & Girls Club are up.

- Hellquist reported on the Airport Commission and the levy amount. He stated that a match on a large grant for renovations at the airport was due to stimulus money.
- Johnson reported that the Airport Authority has hired a marketing firm to develop a marketing plan for the airport.
- Chattin stated that he will be updating the Neilson Foundation regarding the Event Center and attending the Joint Planning Commission on Thursday, July 23 regarding the Planned Unit Development.

ADJOURN

There being no further business, motion by Downs, seconded by Meuers, to adjourn the meeting. Motion carried. Meeting adjourned at 9:35 p.m.

Respectfully submitted,



Kay M. Murphy
City Clerk