

# ***CITY COUNCIL PROCEEDINGS***

## ***BEMIDJI, MINNESOTA***

### ***February 17, 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, February 17, 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.

Lehmann called for any amendments to the agenda. Motion by Zachman, second by Erickson to add a resolution supporting the 2004 Local Sales Tax initiative. Motion passed by unanimous vote. Motion by Johnson, second by Hellquist to authorize a letter of support for LCMR grant funds to augment the City's trail acquisition efforts. Motion carried by unanimous support. Motion by Erickson, second by Meuers, to approve the agenda with the additions noted. Motion carried by unanimous vote.

#### **APPROVAL OF MINUTES**

Minutes of the February 2, 2004 Regular Council meeting were presented for approval. Motion by Erickson, second by Zachman, to approve the minutes as presented. All voted aye. Motion carried.

#### **CONSENT AGENDA**

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

- A. Approved ten (10) pages of bills in the amount of \$429,538.80.
- B. Approved twelve General Business licenses and applications for gambling permits from Rocky Mountain Elk Foundation (raffle on 3/27/04), Ruffed Grouse Society - No. Central MN Chapter 04245 (raffle on 4/8/04), and American Legion Auxiliary (pull-tabs on 3/19-21/04).
- C. Approved **RESOLUTION NO. 5125** approving a gambling license for Bemidji Youth Hockey Association at Hard-Times Saloon.
- D. Approved **RESOLUTION NO.5126** approving a gambling license for Bemidji Youth Hockey Association at The Garden Grill.
- E. Approved **RESOLUTION NO. 5127** approving a gambling license for American Legion Post #14.
- F. Approved **RESOLUTION NO.5128** accepting petition to annex certain property along Balsam Road NW to the Corporate City Limits (Airport Property).
- G. Approved purchase of two (2) Police Department vehicles.
- H. Authorized purchase of used truck for Street Department.
- I. Authorized a contract with the low bidder for replacement of paver bricks in the downtown area.
- J. Approved **RESOLUTION NO.5129** in support of 2004 legislative authorization of a local sales tax.
- K. Authorized a letter of support for Legislative Commission on Minnesota Resources (LCMR) grant funds to augment trail acquisition efforts.

#### **BEMIDJI YOUTH ADVISORY COMMITTEE REPORT**

Becca Crawford reported on the 5<sup>th</sup> annual youth forum which was held on February 3<sup>rd</sup>. She noted there were approximately 40 in attendance and discussion topics included community respect, prejudice, support from parents and teachers, and drug problems in the area. Ms. Crawford also noted that the committee heard the "Bemidji Leads" presentation by Dave Hengel, and a BYAC member was appointed to serve on the Bemidji Leads Committee. Carol Johnson was also appointed to represent the BYAC on the task force on youth violence, underage drinking and illegal drugs.

**BSU STUDENT SENATE REPORT**

Jason Swanson noted that several representatives from BSU attended the BYAC youth forum. Student Senate elections will be held this week. Swanson expressed appreciation to Councilmember Zachman for meeting with BSU students recently. Two candidates will be interviewed this week to fill the vacancy created by Gerald Amble's retirement.

**PUBLIC AFFAIRS COMMITTEE**

At the January 20<sup>th</sup> and February 2<sup>nd</sup> Council meetings, the Council heard complaints from Zard Wilfre regarding the issue of snowmobile traffic on Gould Avenue NE in front of his rental property. He requested that Gould Avenue NE be permanently closed to snowmobile traffic until a trail is established. He further requested that Snowmobile Regulations be amended to allow snowmobile traffic only on routes designed by the City Council – that no other snowmobile traffic be allowed on city streets and that the ordinance be enforced including speeding, noise and trespass.

The Public Affairs Committee met on Thursday, February 12<sup>th</sup> to discuss the use of snowmobiles within city limits.

Meuers reported that the recommendation of the Public Affairs Committee was to increase enforcement along Gould Avenue, clarify the language of the current ordinance, and work towards a permanent solution that will reroute the trail out of residential areas.

The Police Department has been requested to increase enforcement along Gould Avenue, City staff will begin working on an ordinance amendment and the public was urged to contact their legislators to support the 2004 Local Sales Tax initiative for parkland and trail acquisition/improvement.

**CONSIDERATION OF COUNCIL DONATION POLICY**

City Manager Minke noted that the city has a history of donating to various organizations, but in 2001 that practice was suspended as a way to reduce expenses. He noted that the City does, however, provide many in-kind donations such as reduced or no-cost leases at the Depot, Visitors & Convention Center, Community Arts Council, and in some cases pays for utilities, etc. In light of the recent requests from the Boys and Girls Club and the Task Force on Youth Violence, Underage Drinking, and Drug Abuse, Minke suggested that the Council consider a formal donation policy and designate an amount of money to be budgeted for that purpose.

During discussion concerns were expressed that a formal donation policy might result in decisions for donations being done administratively, leaving the Council out of the loop. Zachman expressed the desire to have requests for donations come before the Council. Minke noted that organizations could still present their requests before the Council, but the policy would provide some standard guidelines for making a decision. He also suggested a line item in the budget for donations so that the total is a budgeted expenditure.

Motion by Erickson, second by Downs, to establish a written donation policy and to designate an amount of money in future budgets (beginning with the 2005 budget) which can be used to address the needs of future requests for donations. Motion carried by the following 5-2 vote: Ayes; Hellquist, Downs, Johnson, Lehmann, Erickson. Nays: Meuers, Zachman. Absent: none.

The City staff was directed to prepare a donation policy for review by the council at the March 8<sup>th</sup> work session.

**BOYS & GIRLS CLUB REQUEST FOR DONATION FOR OPERATING EXPENSES  
(Tabled at February 2, 2004 meeting)**

Motion by Meuers, second by Johnson, to table the request for \$75,000 by the Boys & Girls Club until the donation policy has been adopted. Councilmember Hellquist suggested an amendment to the motion to table all requests for funding until the donation policy has been adopted. Meuers and Johnson agreed to the amendment. Motion carried by unanimous vote.

**TASK FORCE ON YOUTH VIOLENCE, UNDERAGE DRINKING AND ILLEGAL DRUGS  
REQUEST FOR FINANCIAL ASSISTANCE**

Erickson provided an update on the Task Force and highlighted its value to the community. She noted that the Task Force is also requesting funding assistance from the City. Erickson further noted that she recently discussed with a member of the Snowmobile Club recently indicated their willingness to donate up to \$5,000 in gambling fund proceeds to charitable organizations, which must be done through the City whether or not they would be comfortable with giving the City \$5,000, which would in turn be earmarked for the Task Force. The Snowmobile Club was agreeable. She suggested that the Council authorize the Mayor or City Manager to request the funds.

Motion by Erickson, second by Zachman, to authorize a written request from the City to the Snowmobile Club for a donation of up to \$5,000 in gambling proceeds to be dispensed to earmarked for the Task Force and given in the name of the City. Motion carried by the following 6-1 vote: Ayes: Johnson, Hellquist, Lehmann, Zachman, Erickson, Downs. Nays: Meuers. Absent: None.

NOTE: Amendments were noted and approved at March 1, 2004 meeting

**WAL-MART APPEAL OF DENIAL TO OPERATE A CURRENCY EXCHANGE AT 2025  
PAUL BUNYAN DRIVE NW**

On January 5, 2004, the City Council voted to not approve an application by Wal-Mart Store #3233 (Bemidji) for a Currency Exchange License. Debra Paddock, Wal-Mart Stores project manager requested a hearing to appeal the Council's decision. Ms. Paddock and Andy Abello, Bemidji store manager, were in attendance. Ms. Paddock explained the purpose of the license noting that it is primarily for those persons who need to cash a check after banking hours or for those who do not have a checking account. Council expressed appreciation for the explanation and noted a lack of understanding resulting in their earlier decision.

Motion by Downs, second by Erickson, to reverse the prior decision to deny the application by Wal-Mart Store #3233 (Bemidji) for a Currency Exchange License. Motion carried by the following 6-1 vote: Ayes: Lehmann, Meuers, Hellquist, Erickson, Johnson, Downs. Nays: Zachman. Absent: None.

**CONSIDERATION OF BIDS FOR WEST SIDE SANITARY SEWER INTERCEPTOR**

On February 6, 2004, nine bids were received for the Westside Sanitary Sewer Interceptor Project as follows:

Spruce Valley Corporation	\$ 835,201.50
Christiansen Industrial Developers	867,529.65
Gladen Construction	952,229.11
Utility Systems of America	1,024,156.00
Hammerlund Construction	1,027,000.00
Reierson Construction	1,161,106.00
Sellin Brothers	1,244,212.00
H & W Contracting	1,345,734.74
Quam Construction	1,368,576.40

Project Engineer Brian Grund of Freeberg & Grund, recommended acceptance of the low bid from Spruce Valley Corporation. Motion by Zachman, second by Erickson, to accept the low bid from Spruce Valley Corporation in the amount of \$835,201.50. Motion carried by unanimous vote.

**PLANNING CASE #04-02** – Filed by Robert Smith, owner of Image Photography, 1305 Bemidji Avenue North, for a variance to situate a new, 20 square foot pylon sign, eight feet from the front property line. The property owner proposes to remove an existing six square foot pylon sign, which is located three feet from the front property line. A 15-foot front yard setback is required for pylon signs in the B-2 zone, therefore, a 7 foot front yard setback variance is being requested for the new pylon sign. Planning Commission recommended approval of the variance to locate a sign eight feet from the front property line with one condition – that the property owner agree to remove two of the existing wall-mounted signs.

Motion by Zachman, second by Downs, to accept the recommendation of the Planning Commission to approve the request with the condition that two of the existing wall-mounted signs be removed. Motion carried by unanimous vote.

**PLANNING CASE #04-03** – Filed by Dave Lueken, 1111 Lake Boulevard NE, requesting two variances. The first variance is for a front yard setback of 19 feet to build an addition to the existing structure, 30 feet required. The house is currently 25 feet from the front property line, therefore, an additional six-foot front yard setback encroachment variance is requested. The second variance is for lot coverage. Maximum lot coverage in the R-3 zone is 30%. The existing structure consumes 32% of the 2,800 square foot parcel. The proposed addition will increase the lot coverage percentage to 34.5%. Planning Commission recommended approval of both variances as requested.

Motion by Erickson, second by Meuers, to accept the recommendation of the Planning Commission. Motion carried by unanimous vote.

**PLANNING CASE #04-05** – file by City of Bemidji to rezone the recently annexed property located at 1815 Division Street West (Gregg's Plumbing & Heating) from R-1 to B-2 (Shopping Center/Highway). Planning Commission recommended approval.

Motion by Erickson, second by Downs, to accept the recommendation of the Planning Commission for approval of the rezoning as requested. Motion carried by unanimous vote.

**PLANNING CASE #04-06** – filed by City of Bemidji to rezone the recently annexed property located at 814 Anne Street NW (Vista North Townhouses LLC) from R-1 to R-3 (Single-Family Residential, Sewered). Planning Commission recommended approval.

Motion by Downs, second by Erickson, to accept the recommendation of the Planning Commission for approval of the rezoning as requested. Motion carried by unanimous vote.

**PLANNING CASE #04-01** – filed by ShoreQuest requesting to subdivide 41.4 acres into 25 commercial parcels. The property is situated at 280 Nymore Beach Road NE. Planning Commission recommended denial with a 5 to 2 vote of the Subdivision - Preliminary Plat, on the grounds that the plat does not meet the following: 1) the best interests of the City of Bemidji; 2) the intent of the Comprehensive Plan of 1996; 3) the HRDC's southeast Lake Bemidji Redevelopment Plan; and 4) the ability to cleanup the lake shore.

City Attorney Felix presented a written request by the property owner's attorney to postpone the hearing before the Council for 30 days. Motion by Zachman, second by Johnson, to postpone Council consideration of Planning Case #04-01 to the March 15<sup>th</sup> Council meeting. Motion carried by unanimous vote.

## **ORDINANCES**

An Ordinance Annexing Property Along Balsam Road NW to the Corporate Limits of the City of Bemidji (Airport Property) was given a first reading.

An Ordinance amending the Zoning Map adopted in Chapter 13, Section 13.08 of the Bemidji City Code (PC #04-05, 1815 Division Street West - Gregg's Plumbing & Heating) was given a first reading.

An Ordinance amending the Zoning Map adopted in Chapter 13, Section 13.08 of the Bemidji City Code (PC #04-06, 814 Anne Street NW - Vista North Townhouses LLC) was given a first reading.

Pursuant to published and posted notice, a public hearing was held on a proposed amendment to Chapter 2 – Section 2.55 of the Bemidji City Code entitled "Merit Hearing Board. Mayor Lehmann opened the public hearing and invited those present to comment. No one appeared. The public hearing was closed.

**ORDINANCE NO. 364, 2<sup>ND</sup> SERIES:** AN ORDINANCE AMENDING CHAPTER 2 OF THE BEMIDJI CITY CODE by amending Section 2.55 entitled "Merit Hearing Board" was given a final reading and passed by unanimous vote.

**Charter Amendments**

**Section 2.03:**

Pursuant to published and posted notice, a public hearing was held on a proposed amendment to Section 2.03 of the Bemidji City Charter. Mayor Lehmann opened the public hearing and invited those present to comment. No one appeared. The public hearing was closed.

AN ORDINANCE AMENDING SECTION 2.03 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER (pertaining to the term length for the at-large councilperson) was given a final reading and failed by the following 5-2 vote: Ayes: Meuers, Hellquist, Downs, Zachman, Lehmann. Nays: Johnson, Erickson. (NOTE: Charter Amendments by ordinance require a unanimous vote by the City Council).

Motion by Johnson, second by Erickson, to present this amendment to the voters on the ballot at the 2004 General Election in November. Motion carried by the following 6-1 vote: Ayes: Meuers, Lehmann, Johnson, Downs, Erickson, Zachman. Nays: Hellquist. Absent: None.

**Section 2.05:**

Pursuant to published and posted notice, a public hearing was held on a proposed amendment to Section 2.05 of the Bemidji City Charter. Mayor Lehmann opened the public hearing and invited those present to comment. No one appeared. The public hearing was closed.

AN ORDINANCE AMENDING SECTION 2.05 OF THE CITY OF BEMIDJI CHARTER-MANAGER CHARTER (pertaining to filling of council vacancies) was given a final reading and failed by the following vote: Ayes: Hellquist, Meuers, Zachman. Nays: Downs, Johnson, Lehmann, Erickson. Absent: None.

Motion by Zachman, second by Downs, to present this amendment to the voters on the ballot at the 2004 General Election in November. Motion carried by unanimous vote.

**Section 3.08:**

Pursuant to published and posted notice, a public hearing was held on a proposed amendment to Section 3.08 of the Bemidji City Charter. Mayor Lehmann opened the public hearing and invited those present to comment. No one appeared. The public hearing was closed.

**ORDINANCE NO. 365, 2<sup>ND</sup> SERIES:** AN ORDINANCE AMENDING SECTION 3.08 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER (pertaining to publication of ordinances) was given a final reading and passed by unanimous vote.

**Section 6.01:**

Pursuant to published and posted notice, a public hearing was held on a proposed amendment to Section 6.01 of the City of Bemidji City Charter. Mayor Lehmann opened the public hearing and invited those present to comment. No one appeared. The public hearing was closed.

**ORDINANCE NO. 366, 2<sup>ND</sup> SERIES:** AN ORDINANCE AMENDING SECTION 6.01 OF THE CITY OF BEMIDJI COUNCIL-MANAGER CHARTER (pertaining to residency requirement of the city manager) was given a final reading and passed by unanimous vote.

**CITIZENS WITH BUSINESS BEFORE THIS COUNCIL – NOT ON AGENDA**

Zard Wilfre inquired about the timeline for the ordinance amendment regulating the use of snowmobiles within city limits and whether the public could provide input. He also asked whether the amendment would include hours of operation. Councilmember Meuers noted that the Public Affairs Committee did not reach a consensus to include hours of operation in the ordinance amendment. The Council was unable to give a timeline for the proposed amendment but noted that the draft would be available for public review by contacting the City Clerk.

Adam Steele expressed concerns regarding the increased sewer fees, particularly for residences that do not have city water. Sewer rates are based on a flat fee per household, unless the residence is connected to city water. City water usage is metered and the sewer is based on water usage. Steele's complaint was that the flat fee was out of line for households where there is only one member. Finance Director Eischens noted that the property owner has the option of installing a meter (at a cost of \$100) to measure sewer usage. If the usage is low, the meter would pay for itself in monthly savings.

Steele also inquired about the possibility of a frontage road from Gemmel Avenue to access downtown, noting that the realignment of Paul Bunyan Drive has created a traffic problem for residents on Gemmel Avenue. It was noted that there is no provision for a frontage road.

**UPCOMING MEETINGS**

Lehmann, Minke and Downs will be in St. Paul on Tuesday, February 18<sup>th</sup> to meet with legislators regarding the Bonding Bill.

Monday, February 23, 2004 4:30-6:30 pm Open House/Reception for Council and Citizens who serve on various commissions

Wednesday, March 3, 2004 LMC, State of Cities Legislative Conference in St. Paul

**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 9:15 p.m.

Respectfully submitted

Shirley J. Sherman, City Clerk