

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – April 3, 2006

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 3, 2006 at 7:00 p.m. in the Council Chambers of City Hall, Mayor Lehmann presiding.

Upon roll call, the following Councilmembers were declared present: Johnson, Markeson, Lehmann, Downs, Meuers, Erickson, Hellquist.

AMENDMENTS TO AGENDA

Lehmann called for any amendments to the agenda. The following addition was requested by Councilmember Erickson:

- 8a. Discussion of condition of Nymore Streets

Motion by Hellquist, second by Downs, to approve the agenda as amended. Motion carried by unanimous vote.

MINUTES

Minutes of the March 20, 2006 regular meeting and March 21 and March 27, 2006 work sessions were presented for approval. Erickson noted a correction to the March 20, 2006 minutes regarding the motion for financial consultant adding the following: designate Councilmember Erickson as the Council's representative on the committee to review the proposals. Motion by Erickson, second by Markeson, to approve the minutes as corrected. Motion carried by unanimous vote.

CONSENT AGENDA

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

1. Approved Claims submitted by the Finance Officer in the total amount of \$266,069.60.
2. Approved miscellaneous business license (Vonasek livestock permit).
3. Accepted Annual Quotes for Aggregate Materials on an As-Needed Basis.
4. Approved **RESOLUTION NO. 5311** Establishing Municipal State Aid Street (10th Street NW from Irvine to Bemidji Avenue).
5. Declared two Police Vehicles as Surplus Equipment – 1998 Ford Crown Victoria and 1999 Ford Crown Victoria.

Motion carried by unanimous vote.

COMMITTEE REPORTS

Bemidji Youth Advisory Commission – Leslie Rith-Najarian provided an update of the Commission's activities. They are planning the June 7 youth day event which now has the Bemidji Pioneer as their Official sponsor for the event. The Commission recently held a listening lunch regarding suicide prevention, which was attended by 50 students.

NEW BUSINESS

Pinnacle Outlet Mall Site – Rough Grading Request

Minke reviewed the materials from staff and Pinnacle noting that Mr. Takhar has asked that #1 regarding the Changes in Official Controls of his proposed developer agreement amendment be removed.

Freeberg stated that the Developer's Agreement requires the completion of a number of specific tasks prior to the developer commencing work on the site. He provided the outstanding issues at this time that affect stormwater management and grading which include the following:

- 1) An updated Erosion Control Plan in conformance with the latest site plan for City review.

- 2) It is noted that on the site plan that at certain locations the final elevation will block drainage from the Cenex property. The grading needs to be defined until such time as the storm sewer is installed that would mitigate the issue.
- 3) If the site sits idle for some period of time, there needs to be an implementation strategy such as installation of retaining walls at locations of steep slopes as called for in the final site plan or modifying those slopes in the interim and establishing appropriate earth cover as called for in the MPCA/NPDES permits. Establishing turf or other cover is a requirement of the NPDES permit.
- 4) To evaluate the stormwater management plan, the Developer's Agreement requires that a stormwater model be developed.
- 5) Inasmuch as the MPCA/NPDES permit requires a "Permanent Stormwater Management System", as called for in the General Permit, the stormwater modeling must be completed in order to deal with the issues of a) Mn/DOT permit for discharge adjacent to and under the highway and b) township approval for the proposal permanent stormwater basin which is located adjacent to but off site and outside the city limits.
- 6) The final stormwater management system design still needs to be completed and submitted in conformance with the outcome of the stormwater modeling, the environmental assessment worksheet and the terms of the Developer's Agreement.

Freeberg commented that if the City departs from the Developer's Agreement without a final plat, the final land use on the site may be different than the Pinnacle Mall concept.

Jim Holmes, Holmes & Associate and special counsel on this project, stated that Mr. Takhar has characterized the staff and Council as impeding the project. This is not so. No work was to begin on the site until a series of accomplishments occurred. One of the important items was the final plat. Mr. Holmes stated that work means work on the site. If the Council decides to allow the grading to go ahead, there are things that should be placed as conditions on it. The City has a Developer's Agreement that it has spent a lot of time and money on it. Mr. Holmes stated that if the Council does not get the plans before the grading, they may not get what was intended.

Brian Grund, Freeberg & Grund and the engineer for Pinnacle, stated that he has met with Mr. Freeberg and agreed that a number of items need to be completed. Grund stated that the City has received a copy of the grading plan. However, there were modifications to the site plan which required revisions to the grading plan. Due to modifications to the site plan the stormwater model has been delayed. Grund is working on an approval from Bemidji Township for the proposed permanent stormwater basin. He anticipated that the six items listed in Freeberg's memo will be completed before any "rough" grading.

Mr. Takhar, Developer for Pinnacle Village, stated that the grading costs between \$3-\$4 million and it will be done right. There are rocks on the site for stabilization. He stated that there is no way that grading will be completed until the six items are completed on Mr. Freeberg's memo. Mr. Takhar stated that he has submitted a revised grade plan and revised site plan along with other documents.

City Planner Oakes stated that a draft copy of a final plat was submitted by Freeberg & Grund for the City's preliminary review. No request has been made for the Planning Commission final plat review. Oakes stated that last week Mr. Takhar discussed possible changes in the plat.

Mr. Takhar stated that the problem is that it is unknown what the final plat will be until tenants have indicated what their needs are. Mr. Takhar indicated that nothing has changed from the beginning and the plan is still the same.

Lehmann asked if it is the case that everything is still the same and the only thing that is changing things somewhat is a tenant's requirements, where is the problem with getting a final plat? Mr. Takhar responded that there is a need for a commitment from each tenant/buyer because he cannot give them a timeline when the project will be completed. Discussion continued on the space requirements for the tenants, rough grading, meaning of "work" and other requirements that are needed for the site.

Minke asked how long the "rough" grading is expected to take. Mr. Takhar responded six to eight weeks.

Gary Dagen stated he has been in financial services industry and insurance business for last 20 years and has lived in Bemidji for the last 16 years. Mr. Dagen commented that he feels Bemidji is a progressive community and commended the city council on their part in

furthering Bemidji. He stated that Pinnacle Village Outlet will be an asset to compliment Bemidji and he urged the Council to consider Mr. Takhar's request.

Erickson stated that she recently visited the site and has concerns about the affect that the stormwater will have on the neighboring properties. She visited with Soil & Water Conservation District about the stormwater runoff and about the tree removal. Chris Parthun, SWCD, stated that the soil is porous and will take a considerable amount of water and the concern is not a flooding issue. She discussed the tree removal and would like to see an agreement for replacement of the trees. Lehmann responded that there is landscaping and tree replacement in the Developer's Agreement.

Discussion continued on the need for the Developer's Agreement which contemplated a number of issues which resulted in what the City believed was necessary to protect the public interest.

Felix commented that the owner of the Pinnacle property is Ron Davidson and the City is assuming that Mr. Takhar speaks for Pinnacle Outlet on behalf of the property owner. Mr. Takhar responded that he is in charge of Pinnacle LLC and also in control of the Justice property.

Hellquist stated that the Council has tried on several occasions to meet and accommodate Mr. Takhar's requests going all the way back to the negotiations on the developer's agreement to the usage of the second floors and other variables. He stated that Council has not been the antagonist in this matter as portrayed by Mr. Takhar. Hellquist observed that there are more than a few ducks that are not lined up on the project. He stated he has stretched to support the project and is willing to listen to some type of mediation but to state that the grading has to be done as it is the only thing holding the project back is not true.

Motion by Markeson, second by Meuers, to deny Mr. Takhar's request to approve an amendment to the Developer's Agreement to allow "rough" grading prior to a final plat submittal and approval and required permit(s) are in place. Motion passed unanimously.

City Manager Hiring

Lehmann stated that it is with regrets that the City accepts Mr. Minke's letter of resignation effective May 1, 2006 and thanked David for his three plus years of service to the community. Lehmann stated that the Council now needs to decide on how to proceed in the search for a new manager. Several options are available to the Council including hiring a headhunter firm. Lehmann directed the City Clerk to arrange a work session to discuss the search for hiring a new city manager. Lehmann made the recommendation that the Council consider Ron Eischens and Al Felix as the management transition team.

Lehmann suggested that the City compensate staff acting as the management team during the interim. Minke stated that the Council should be aware that for interim management it is not only money but time.

Motion by Downs, second by Johnson, appointing Ron Eischens and Al Felix as the management team effective May 1, 2006 with Ron Eischens to serve as the primary contact for day-to-day operations. Motion carried unanimously.

Nymore Street Conditions

Lehmann stated that Councilmember Erickson asked that the condition of Nymore streets be added and agreed that it has been a rough spring on our roads.

Erickson stated that the Council has already reviewed what will be done for street construction and reconstruction for this season. Normally, what has happened in Nymore in past years, the pothole machine was brought over and holes were filled. She stated that this year the streets are in much worse shape then what can be filled by a pothole machine. She believed that the last time there was overlays in Nymore was in the mid-1980s. Erickson asked the Council to authorize the City Engineer to provide a report to the Council of the condition of certain streets in Nymore and the anticipated costs of some overlay work this year instead of waiting until next year.

Lehmann asked the City Engineer if there was still time to do overlays in the Nymore area this construction season. Freeberg replied that there was time to do some work.

Council directed staff to bring information regarding the Nymore streets at their next meeting.

ORDINANCES

ORDINANCE NO. 423, 2ND SERIES, AMENDING CHAPTER 13 OF THE BEMIDJI CITY CODE BY REPEALING SECTIONS 13.570 THROUGH 13.587 RELATING TO INDUSTRIAL ZONE CLASSIFICATIONS AND ADDING NEW SECTIONS 13.570 THROUGH 13.581, ENTITLED “DIVISION 13. I-1 INDUSTRIAL PARK/LIGHT INDUSTRIAL DISTRICT” AND “DIVISION 14. I-2 GENERAL INDUSTRIAL DISTRICT” was given a final reading and passed by unanimous vote.

Felix reviewed a letter received on April 3, 2006 from Mark Rock & Concrete Co. regarding the removal of asphalt plant in the I-3 zone.

Motion by Markeson, second by Hellquist, authorizing publication of a summary of Ordinance No. 423, 2nd Series. Motion carried unanimously.

ORDINANCE NO. 424, 2ND SERIES, AMENDING THE ZONING MAP ADOPTED IN CHAPTER 13, SECTION 13.08 OF THE BEMIDJI CITY CODE (PERTAINING TO PLANNING CASE #2006-01 – I-1 AND I-3) was given a final reading and passed by unanimous vote.

ORDINANCE NO. 425, 2ND SERIES, AMENDING SECTION 2.09, PERTAINING TO CITY COUNCIL SALARY was given a final reading and passed by unanimous vote.

Lehmann noted that the ordinance amending the Fee Schedule had been changed to include JOBZ fees.

Pursuant to published notice, a Public Hearing was held to receive input regarding a proposed Ordinance Amending the Fee Schedule to include Industrial Revenue Bond and JOBZ Fees. Mayor Lehmann opened the Public Hearing at 9:20 p.m., hearing no comments the public hearing was closed.

AN ORDINANCE amending the Fee Schedule to include Industrial Revenue Bond and JOBZ Fees was given a second reading.

AN ORDINANCE establishing Pay for Joint Planning Committee members was given a first reading.

UPCOMING MEETINGS

- April 10 @ 5:30 p.m. – Work Session
- May 1 @ 7:00 p.m. – BEDA / City Council Meeting
- May 2 @ 5:00 p.m. – Board of Review
- May 22 @ 5:30 p.m. – Special Work Session – Utility fund cash flow analysis

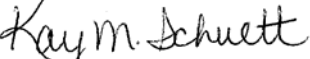
COUNCIL/STAFF REPORT

- Lehmann reported that he will be dressed in a bib and diaper for the March of Dimes on April 8, 2006 if he reaches his goal of \$1,000 and encouraged everyone to give to the March of Dimes.
- Lehmann commented that Bemidji Day at the Capital had an excellent turnout.
- Downs volunteered to talk to Gayle Quistgard regarding VisitBemidji shirts for the BSU student aids at the Capitol.

ADJOURN

There being no further business, motion by Hellquist, second by Erickson, to adjourn the meeting. Motion carried. Meeting adjourned at 9:37 p.m.

Respectfully submitted,


Kay Murphy-Schuett
City Clerk