

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

April 18, 2005

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 18, 2005, at 7:00 p.m. in the Council Chambers of City Hall, Mayor Lehmann presiding.

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

AMENDMENTS TO AGENDA

Lehmann called for any amendments to the agenda. Motion by Erickson, second by Johnson, to approve the agenda as presented. Motion carried.

MINUTES

Minutes of the April 4, 2005 regular Council meeting, April 7, 2005 Special meeting, April 11, 2005 Work Session and April 12, 2005 Special Joint meeting were presented for approval. Motion by Erickson, second by Markeson, to approve the minutes as presented. Motion carried by unanimous vote.

CONSENT AGENDA

Motion by Hellquist, second by Downs, to approve the Consent Agenda items as follows:

1. Approve claims submitted by the finance officer.
2. Approve business license.
3. Award bid for sanitary sewer cleaning/television inspection
4. Award bid for storm sewer cleaning

Motion carried by unanimous vote.

COMMITTEE REPORTS

Bemidji Youth Advisory Commission – No report.

BSU Student Council – Jake Overgaard reported that BSU Student Council is in the process of electing officers. The Student Council continues to consult with BSU President on tuition. Tuition freeze campaign on hold and waiting to see what comes through from the House and Senate.

Oak Hills Student Senate:

Nancy Beer reported that the spring concert was great with 300 people attending. Recently completed a fundraiser and were able to send 16,000 rice packets to the Tsunami victims. Current event at campus, May 5 is National Day of Prayer.

PUBLIC HEARING

Mayor Lehmann opened the public hearing for City Project #05-06, Extension of Utilities to Bardwell Park/Hiway Acres.

Brian Freeberg provided an overview of the project. Proposed project would provide sanitary sewer and water to parcels in the Bardwell Park and Hiway Acres. Freeberg reported that a neighborhood meeting was held.

Lehmann asked how much asphalt would be replaced. Freeberg responded that only the asphalt disturbed by the project.

Erickson asked how many of these parcels would be eligible for a deferral. Freeberg stated he is unable to provide an answer until the City receives deferral applications.

Steve Premo, owner of Viking Development, submitted a letter dated April 18, 2005 stating his opposition to a second assessment to his property for sanitary sewer. Freeberg stated that the correction to the assessment for Mr. Premo's property will be done administratively.

Zada Wohlrabe-Shindelar, 3701 Laurel Drive NW, stated that she felt the decision to force sewer and water on this park has been decided. She further stated that this project is going to happen whether they want it or not. The people who are going to benefit from this are the developers.

Mark Dickenson, owner of 17 lots of NW corner of this property, commented that this project is important for this development. This is a key reason that the property was brought into the City. Mr. Dickenson stated that he felt it is positive to have the ability to connect to city water and sewer and encouraged the Council to vote in favor of the resolution.

There being no further comments, the public hearing closed.

RESOLUTION NO. 5221: A RESOLUTION ORDERING IMPROVEMENT, DESIGNATING PROJECT ENGINEER, CALLING FOR PREPARATION OF PLANS AND SPECIFICATIONS, AND AUTHORIZING ADVERTISEMENT FOR BIDS ON CITY PROJECT #05-06 (Extension of Utilities to Bardwell Park/Hiway Acres) was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Markeson, was passed by unanimous vote.

PLANNING CASE #2005-01: Filed by Deep Rock Townhomes (BTL Construction, Inc. – Brad & LuAnn Lissick), requesting Final Plat (Phase 1) approval for the first 15 lots of their Planned Unit Development – Common Interest Community No. 30 / Special Use Permit. The first phase is proposed to include six twin homes and one tri-plex on property situated south of Division Street West and west of Jefferson Avenue SW.

1. The Deep Rock Townhomes Planned Unit Development/Common Interest Community, Special Use Permit – Final Plat shall include 15 parcels for townhouse units to be built, as identified on the Common Interest Community No. 30 plan received March 2, 2005.
2. Future phases of the Final Plats / Common Interest Communities will be reviewed individually by the Planning Commission and Council with a public hearing for each phase.
3. All streets, utilities, and the storm water management pond shall be constructed to City specifications, as required by the City Engineer. They may be built in phases, as the parcels are sold and developed. Deep Rock Loop SW shall be constructed to connect to Kaylee Court SW, to the southwest, as identified in the City Engineer's memorandum dated February 18, 2005, which may be constructed of gravel.
4. The City Engineer shall review and approve all final construction plans prior to construction.
5. The trees shall be planted as identified on the landscaping plan received on February 11, 2005.

Planning Commission recommended approval. Motion by Erickson, second by Hellquist, to accept the recommendation of the Planning Commission to approve the request with the five conditions as presented with the addition of the requirement for a Developers Agreement to require connection to city water and sewer. Motion carried by unanimous vote.

PLANNING CASE #2005-05: Filed by Beltrami County, requesting to vacate 7th Street NW, between America and Minnesota Avenues NW. Beltrami County proposes to add a parking lot, sidewalk, pavilion, and green space to the street right-of-way proposed to be vacated. Planning Commission recommends approval with the following conditions:

1. The County reimburses the City of Bemidji approximately \$43,000 for the required repayment to the Minnesota State Aid (MSA) system due to the vacation and removal of one block of 7th Street NW between Irvine Avenue NW and Minnesota Avenue NW from the MSA system.
2. The City of Bemidji shall retain existing and future utility easements in, under, and upon the former street right-of-way vacated in favor of private and public utility easement holders for the purpose of locating, maintaining, repairing, replacing, removing, or otherwise attending to any utilities therein.
3. City shall change traffic flow on 6th Street NW between America Avenue NW and Minnesota Avenue NW from one-way back to two-way traffic.

Planning Commission recommended approval. Motion by Hellquist, second by Johnson, to accept the recommendation of the Planning Commission to approve the request with three conditions as presented. Motion carried by unanimous vote.

PLANNING CASE #2005-06: Filed by Voyageurs Expeditionary High School, requesting a Special Use Permit to allow them to relocate their existing charter school to a B-3 (Central Business District) zoned property situated at 102 First Street NW (Mayflower Building). Planning Commission recommends approval with the following conditions:

1. An annual review will be conducted for at least the first two years.
2. The school will be permitted a maximum of 100 students.

Planning Commission recommended approval. Motion by Downs, second by Markeson, to accept the recommendation of the Planning Commission to approve the Voyageurs Expeditionary High School request with two conditions noted. Motion carried unanimous vote.

PLANNING CASE #2005-07: Filed by City of Bemidji, requesting two ordinance amendments as follows: Chapter 13, Zoning Ordinance amendment to add Section 13.33 "Landscaping" and amend Section 13.802(2) "Standards for Requiring Off-Street Parking". This amendment pertains to Landscaping (Open Space – Green Space); and Chapter 14 is a newly proposed chapter (Zoning Ordinance Amendment) pertaining to Tree Preservation and Replacement). These draft ordinances have been amended since they were recommended for City Council approval by the Planning Commission on November 29 and December 21, 2004.

1. Planning Commission recommends approval of Sections #1, #3, and #4 of the Landscaping (Open Space – Green Space) Ordinance as presented, and opt for Alternative #2, including the following wording, for Section #2:

"Parking lots with forty (40) or more off-street parking spaces shall have live landscaping, including trees, of at least four percent (4%) of the interior of the lot."

2. Planning Commission recommends approval of the Tree Preservation and Replacement Ordinance as amended by the Planning Commission on March 28, 2005.

Erickson is concerned with the language in the proposed landscaping ordinance, Section 3 and suggested that it end after the word "landscaping". She is concerned that this may allow property owners not to mow their yards.

Minke commented the staff understands the Council's concern that we clarify that this requirement does not supersede the property maintenance aspect of the code and that it is expected that there still is the requirement to maintain lawns. There will be exception for areas that are wooded or wetland.

Planning Commission recommends approval. Motion by Downs, second by Markeson, to accept the recommendation of the Planning Commission to approve both requests as presented. Motion carried unanimously.

UNFINISHED BUSINESS

Kitchigami Regional Library – Joint Powers Agreement: Minke reported that he visited with Marian Ridge, the Executive Director of the Kitchigami Regional Library, who informed him that one of the cities in the current master agreement has already taken formal action to oppose the proposed amendments to the Joint Powers Agreement. Since the amendments require the concurrence of all parties to the agreement, KRL Board is no longer going to review and approve the proposed changes. Therefore, this issue is moot from the City's perspective. Minke also met with Meuers and JoAnn Henningsgard, the City's representative on the KRL Board, regarding this issue and they suggested the Council table this item until such time KRL has a proposal that the City can respond to. Minke will continue to monitor the situation.

Ratification of written draft of decision approving Preliminary CIC Plat and Planned Unit Development/Special Use Permit Request for Pinnacle Outlet Mall:

Motion by Hellquist, second by Downs, ratifying the written Decision and Modified Findings and Conditions for the Pinnacle Village Outlet Mall. All voted aye. Motion carried unanimously.

NEW BUSINESS

15th Street Water Tower Cleaning & Painting:

Minke reported that since 2002, the City has been working on this project knowing that the 15th Street Water Tower is in need of reconditioning. This is not a budgeted item in the Capital Improvement budget, however, the City has been working on lease agreements with cellular companies who have antennas on the water tower. The annual tower rental revenue over the next 15 years will more than pay for the cleaning and painting the water tower.

Motion by Erickson, second by Markeson, authorizing an agreement with KLM Engineering, Inc., for engineering and inspection for this project and award a contract to Lead Con, Inc. for cleaning, repairing and painting the 15th Street Water Tank. All voted aye. Motion carried.

Boys & Girls Club Funding Request:

Markeson commented that the City of Bemidji has been given an opportunity and a challenge to improve the infrastructure of our community in general. The USDA Rural Development has offered a grant of \$50,000 on the condition that it be matched with \$50,000 from the community. The Boys & Girls Club offers a lot of things and for an annual fee of \$5 they will be offering members the opportunity to use a gymnasium, arts & craft, library and computer lab. The money requested will be used to complete the Community Room which includes a kitchen area. The City should support this project as it benefits the young people in this community as well as their parents. It is a great resource that provides a supervised area for working parents. In addition, it helps give our youth positive alternatives. The Boys & Girls Club is a benefit to the community in general to assist reducing crime.

RESOLUTION NO. 5222: A RESOLUTION AUTHORIZING A DONATION TO THE BOYS & GIRLS CLUB OF BEMIDJI AREA was offered by Councilmember Markeson, who moved its adoption, and upon due second by Councilmember Erickson, was passed by unanimous vote.

Erickson inquired if the Boys & Girls Club had their future operating budget fully funded?

Sue Engel, Boys & Girls Club, responded yes and then explained the operating budget funds stating that they come from several sources. In addition, to Boys & Girls Club of America and Minnesota Alliance there are corporate sponsors, annual campaign, ongoing grant writing, fundraising by the boys and girls and membership fees. Currently, there are approximately 50-60 children coming to the Boys & Girls Club daily.

Erickson stated that although this is a good cause in the future her answer will be no to other requests for donations.

Johnson suggested that the City tie their donation to the matching grant from USDA Rural Development and a contribution from the County.

Council discussed where the funds are available for this donation. The Council agreed to pledge \$15,000 which would come from the 2006 Liquor Store budget payable in January 2006.

After discussion, Council added the contingency to the resolution that the City's contribution is contingent on the Boys & Girls Club receiving the USDA Rural Development grant of \$50,000.

Johnson suggested a future work session topic to discuss the use of liquor funds for community good.

Minke reminded the Council that at a previous work session the Council discussed that using liquor funds for local street improvements was a good use of the funds and easily defensible to the state.

Chat-a-Bout Program Topic for May 2, 2005: Trails funding – Councilor Downs.

RESOLUTION NO. 5223: A RESOLUTION ACCEPTING PETITION AND FEASIBILITY REPORT ORDERING IMPROVEMENT PROJECT, DESIGNATING PROJECT ENGINEER, CALLING FOR PREPARATION OF PLANS AND SPECIFICATIONS, AND AUTHORIZING ADVERTISEMENT FOR BIDS was offered by Councilmember Downs, who moved its

adoption, and upon due second by Councilmember Markeson, was passed by unanimous vote.

RESOLUTION NO. 5224: A RESOLUTION TO RESCHEDULE PUBLIC HEARING FOR WARD 1 PROJECT TO MAY 2 was offered by Councilmember Erickson, who moved its adoption, and upon due second by Councilmember Markeson, was passed by unanimous vote.

ORDINANCES

1. AN ORDINANCE AMENDING CHAPTER 6 OF BEMIDJI CITY CODE BY REPEALING SECTION 6.40, ENTITLED PAWNBROKERS, SECONDHAND GOODS AND JUNK DEALERS, AND ADDING NEW SECTION 6.40 RELATING TO THE LICENSING AND REGULATION OF PAWNBROKERS, SECONDHAND AND PRECIOUS METAL DEALERS, AND TO ADOPT, ESTABLISH AND IMPLEMENT THE USE OF THE AUTOMATED PAWN SYSTEM (APS) was given a first reading.
2. AN ORDINANCE AMENDING THE 2005 FEE SCHEDULE was given a first reading.
3. AN ORDINANCE ESTABLISHING FEES FOR EMERGENCY PROTECTION FIRE SERVICES was given a first reading.
4. AN ORDINANCE AMENDING CHAPTER 8, SECTION 8.07, OF THE BEMIDJI CITY CODE ENTITLED "SNOWMOBILE REGULATIONS", BY ADDING PROVISIONS ADOPTING SPEED LIMITS ON DESIGNATED SNOWMOBILE TRAILS WITHIN THE CITY, AND BY IMPOSING PENALTIES FOR VIOLATIONS was given a first reading.
5. AN ORDINANCE AMENDING AN UNCODED SECTION OF BEMIDJI CITY CODE PERTAINING TO ALLEY VACATION (PC #2005-05, a portion of 7th Street between America and Minnesota) was given a first reading.
6. AN ORDINANCE AMENDING CHAPTER 13 OF THE BEMIDJI CITY CODE TITLED ZONING REGULATIONS (Landscaping, Open Space-Green Space) was given a first reading.
7. AN ORDINANCE AMENDING THE CITY CODE BY ADDING CHAPTER 14 TITLED TREE PRESERVATION AND REPLACEMENT was given a first reading.
8. Pursuant to published notice, a public hearing was held to receive comment regarding the proposed ordinance to amend the Zoning Map adopted in Chapter 13, Section 13.08 of the Bemidji City Code pertaining to Planning Case #2004-27, Westwood Acres, LLC property. Mayor Lehmann opened the public hearing and invited those present to comment. The public hearing was closed.

AN ORDINANCE AMENDING THE ZONING MAP ADOPTED IN CHAPTER 13, SECTION 13.08 OF THE BEMIDJI CITY CODE (PC #2004-27, Westwood Acres) was given a second reading.

9. **ORDINANCE NO. 397, 2ND SERIES:** An Ordinance amending the zoning map adopted in chapter 13, Section 13.08 of the Bemidji City Code (pertaining to PC #2005-02, Southeast Bemidji "the lost 40" property) was given a final reading and passed by the following vote: Ayes: Hellquist, Johnson, Downs, Erickson, Markeson, Lehmann. Nays: None. Absent: Meuers.
10. **ORDINANCE NO. 398, 2ND SERIES:** An Ordinance amending the zoning map adopted in Chapter 13, Section 13.08 of the Bemidji City Code (pertaining to PC #2005-03, James & Evelyn Aylesworth property) was given a final reading and passed by the following vote: Ayes: Hellquist, Lehmann, Johnson, Downs, Erickson, Markeson. Nays: None. Absent: Meuers.
11. **ORDINANCE NO. 399, 2ND SERIES:** An Ordinance amending the zoning map adopted in Chapter 13, Section 13.08 of the Bemidji City Code (pertaining to PC #2005-04, Kent & Mary Jo Christenson property) was given a final reading and passed by the following vote: Ayes: Lehmann, Hellquist, Downs, Johnson, Erickson, Markeson. Nays: None. Absent: Meuers.

CITIZENS WITH BUSINESS BEFORE THIS COUNCIL – NOT ON AGENDA

Don Josefson, owner of Better Days Pawn, expressed concerns about the Council initiating an amended pawnbroker ordinance. He felt that it is being “thrust” upon the business owners and will cost a significant amount of money.

Felix stated that Assistant City Attorney Brand has contacted each licensee by letter and has spoken with businesses that will be affected by it. The computerized database for the automated pawn system will be administered by the Minneapolis Police Department and more than 100 communities are in that system. The manual system takes weeks and months to go through the tickets. The County will also be adopting this system.

Chad Plante, Asst. Mgr., Ideal Pawn, stated that they are in favor of the automated pawn system.

Don Whitman, Pawn USA, stated that he is somewhat in favor with an APS. He does have some issues with the ordinances as it is. He is concerned with costs that will be incurred by the businesses in the community and suggested a provision for smaller businesses, i.e., antiques.

Lehmann directed that staff to set up a meeting with those concerned.

UPCOMING MEETINGS

- April 20 – 8:00 a.m. - Public Works Committee
- April 25 – 5:30 p.m. - Council Work Session

COUNCIL/STAFF REPORTS

- Staff is meeting with the DNR regarding trails on Tuesday, April 19. More updates in the future.
- Minke shared e-mails he had received from League of Cities and Coalition regarding annexation and tax related bills. He encouraged the Council to take time to send out e-mails to legislatures.
- Minke pointed out that the construction is completed for the cable box and the next broadcast of the Council meeting will be done from City Hall for cable access.
- Lehmann stated that he signed a proclamation designating Friday, April 22 as Earth Day in Bemidji. Lehmann toured the History Center at the Depot with Councilor Hellquist. Wanda Hoyum, Historic Center Director, extended the invitation to Councilmembers to visit the Depot.
- Erickson reported that she attended a Committee Hearing with Councilmember Meuers last week. The Committee Hearing was on “One Minnesota Act” whose ultimate purpose is to restore lost local government aid to governments and school funding.
- Johnson attended the 2005 airport symposium in Mankato last week. The Airport Commission is in the middle of the Airport Master Plan.

ADJOURN

There being no further business, motion by Councilmember Downs, second by Councilmember Erickson, to adjourn the meeting. Motion carried. Meeting adjourned at 9:20 p.m.

Respectfully submitted,

Kay Murphy-Schuett
Deputy City Clerk