

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

May 2, 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, May 2, 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: Hellquist, Meuers, Lehmann, Johnson, Markeson Erickson, Downs

AMENDMENTS TO AGENDA:

Lehmann called for any amendments to the agenda. The following additions were requested:

- Erickson requested Council authorization for Markeson and Erickson to trade one committee assignment;
- Meuers requested authorization for travel reimbursement to travel to St. Paul on Wednesday, May 4, to lobby with the Coalition;
- Minke requested authorization to participate in a Beltrami County housing needs assessment;
- Downs requested discussion regarding Industrial Park zoning

Motion by Erickson, second by Johnson, to approve the agenda as amended. Motion carried by unanimous vote.

MINUTES

Minutes of the April 18, 2005, regular meeting and April 25, 2005 work session were presented for approval. Motion by Meuers, second by Downs, to approve the minutes as presented. Motion carried by unanimous vote.

CONSENT AGENDA:

The following Consent Agenda items were presented for approval. Erickson requested removal of the Joint Powers Agreement with the State of Minnesota pertaining to the Identix IBIS RDT (portable fingerprinting) unit. Erickson suggested the need for some discussion to provide the public with a better understanding of the equipment. Motion by Downs, second by Erickson, to approve the remaining Consent Agenda items as follows:

1. Approved Claims submitted by the Finance Officer in the total amount of \$622,326.79
2. Approved Miscellaneous Business Licenses and Permits
3. Held the first consideration of an application for renewal of a beer license at Bardwell Park
4. Approved a gambling permit for Bemidji Central Labor Body (9/5/056 – Raffle)
5. Approved RESOLUTION NO. 5225 and Municipal Order Directing Fill of Hazardous Excavation at 1609 4th Street SE
6. Authorized Engineering Agreement for Bardwell Park/HiWay Acres Improvements
7. Authorized Engineering Agreement for Pine Ridge Avenue Improvements
8. Authorized Engineering Agreement for Well Field
9. Authorized participation in a countywide housing needs assessment to be done by Beltrami County HRA at a cost to the City of Bemidji of \$1,000.

Motion carried by unanimous vote.

COMMITTEE REPORTS

Bemidji Youth Advisory Commission

Jon Staff reported that preparations are continuing for the June 7th Youth Day celebration. In addition, the members have been

- studying an idea brought forth by Councilmember Markeson to use one of the City parks as a youth center without walls
- re-examining the position of the Youth Advisory Commission as it relates to city government and the roll the members play as representatives for area youth

BSU Student Senate

Jake Overgaard noted that the academic year is drawing to a close. The final wrap up meeting is scheduled for Tuesday. Jake noted that this is his last year and Ella Hogenson was introduced as his successor for the next school year.

Oak Hills Student Senate

Nancy Beer noted that Thursday, May 5 is National Day of Prayer. Graduation is scheduled for May 14th.

Public Works Committee

Councilmember Hellquist reported that the Committee met with Downtown Development Authority (DDA) members on May 20 to review the proposal by the DDA for a 2-tier parking ramp in City parking lot #4 to be used primarily for downtown employee parking. Cost of the ramp is estimated at approximately \$900,000; Jim Lucachick has been selected as the architect; Kraus-Anderson will be Project Manager. The project is scheduled to begin this summer with completion projected for November 2005.

Minke noted that subsequent to the Public Works Committee meeting, city staff met with representatives of the DDA to review the lease for Lot #4. Some modifications were suggested, and a copy was mailed to the League of MN Cities Insurance Trust for their review. Staff is awaiting their response.

PUBLIC HEARINGS

➤ **Ward 1 Street Reconstruction/Storm Sewer Improvements** - Pursuant to mailed and published notice, a public hearing was held to consider proposed street and storm sewer improvements in the Ward 1 area (City Project #03-10). A copy of the Feasibility Report and proposed assessment roll was mailed to affected property owners. City Engineer Freeberg provided an overview of the project. Mayor Lehmann opened the public hearing and invited those present to comment on the issue. No one appeared. The public hearing was closed.

RESOLUTION NO. 5226: A RESOLUTION ORDERING IMPROVEMENT, DESIGNATING PROJECT ENGINEER, CALLING FOR PREPARATION OF PLANS AND SPECIFICATIONS, AND AUTHORIZING ADVERTISEMENT FOR BIDS ON IMPROVEMENT was offered by Councilmember Hellquist, who moved its adoption, and upon due second by Markeson, was passed by unanimous vote.

RESOLUTION NO. 5227: A RESOLUTION AWARDDING BID FOR CITY PROJECT NO. 03-10 (Ward 1 Street Reconstruction/Storm Sewer Improvements) was offered by Councilmember Hellquist, who moved its adoption, and upon due second by Markeson, was passed by unanimous vote

➤ **Ordinance Amending the Regulation of Pawnbrokers** - Pursuant to published notice, the Council held a public hearing to consider proposed amendments to Chapter 6 of the City Code pertaining to regulation of pawnbrokers, secondhand goods and junk dealers.

Assistant Attorney Jeanine Brand noted that the City currently regulates pawnbrokers, secondhand and junk dealers for the purposes of 1) preventing or deterring crime, 2) solving crime and 3) reducing the cost of regulating the industry. Under the current ordinance, pawnbrokers submit transaction slips to the Police Department bi-monthly. The Police Department staff manually reviews and enters approximately 20,000-25,000 slips per year into the National Crime Information Center (NCIC) system to determine whether any of the items listed are stolen.

Brand explained that the proposed ordinance revision would require businesses that buy, consign, pawn or trade items from the public (including precious metals dealers and antique dealers) to install a computer program that would enable them to enter transactions daily through the Police Department to an Automated Pawn System (APS) in Minneapolis. The system would automatically track items that have been reported stolen. The Police Department will be charged \$1.00 for each billable transaction submitted to the APS. The new ordinance proposes to pass that charge on to the business as well as an additional \$.50 fee to cover the cost of the equipment as well as personnel costs to verify the licensee's compliance with state and local laws.

Markeson expressed concerns about the proposed \$1.50 transaction fee which will likely be passed along to the customer. He called it a tax and suggested that because the activity will

benefit the City, it should be supported by the community in general. City Attorney Felix noted that the proposed \$1.50 transaction fee pales in comparison to the 20-25% currently charged by pawnshops. Minke noted that if the fee is connected to a business transaction, it would not be considered a tax.

Downs asked about start-up costs for the business owner. It was noted that most business owners already have the basic computer requirements, so the cost would be approximately \$2,000 to install the components of the program.

Downs expressed the importance of coordinating efforts with the County to regulate these businesses countywide. Minke noted that the City staff is working with the County Attorney to draft an ordinance for consideration by the County Board that will mirror the city's proposal as nearly as possible.

Mayor Lehmann opened the public hearing and invited those present to comment on the issue.

Don Josephson, Better Days Pawn, 320 Paul Bunyan Drive – objected to the requirement of taking a photo of customers making transactions. He noted that customers must currently provide picture identification, information about pawned items is already being recorded, and crimes are being solved under the current system. He questioned whether law enforcement would have time to follow up on every \$20 pawned item found on a list of stolen goods.

Police Chief Bruce Preece noted that the proposed APS program is a tool to help solve crimes more efficiently. He noted that the Police Department does not have the necessary personnel to continue processing transaction slips manually. He noted that they are frequently behind on processing slips and the APS will help them stay on top of the issue. He also noted that the Department will only view photos and video tapes of clients when items entered into the APS are reported stolen.

Shawn Hyde, Ideal Pawn, 419 Paul Bunyan Drive – expressed support for the proposed ordinance and suggested that it would save time by not having to manually type transaction slips. He objected to the proposal to extend the holding period from the current 60 days to 90 days, and suggested that the proposed transaction fee be reduced for a period of time to allow businesses to recover startup costs. He also noted that his customers have not expressed concerns about the requirement to take photos.

Bruce Peterson, Back-in-Time Antiques, 1105 W. 15th Street – expressed opposition to antique dealers being regulated by the ordinance – antiques is a whole different ballgame. He suggested an exempt status for businesses dealing in antiques, noting that the Minneapolis ordinance does not include antique dealers. He further noted that the proposed 90-day holding period is not feasible for antiques. Felix responded that the holding period allows the police time to recover an item if it is determined to be stolen. Brand noted that antique dealers were included in the ordinance because theft of antiques and precious collectibles has increased.

Elaine Peterson, Back-in-Time Antiques, 1105 W. 15th Street – noted that the focus appears to be on items with serial numbers which would seem to exempt antiques.

Erickson suggested that there may be a need to set up classifications to separate the types of businesses and that the holding period may need to be revisited.

Chad Plante, Ideal Pawn, 419 Paul Bunyan Drive – was not opposed to the proposed ordinance revision, but expressed the need to have everyone on board.

Detective Sergeant Jerry Johnson noted that the Police Department is seeing the same issues in antique stores as in pawn shops. Theft of antiques and precious items has increased. He emphasized the need to be able to identify the person pawning an item. If the item is stolen, the police need the picture to place a suspect at a certain time or place and to carry the matter through the legal system.

Irving Reeves, MTM Video & Gaming, 1426 Bemidji Avenue – noted that his business buys DVD's and video games from people off the street. He emphasized that there is no other business operating in the City similar to his and suggested that the scale of his business is inconsequential in comparison to pawnshops. He requested that the minimum transaction amount be raised from the proposed \$15 and the annual number of reportable transactions (requiring businesses to join the APS) be increased from 300 to 500.

Jean Malone, Grandma's Attic Antique Mall – noted that she rents space out to dealers. She questioned how antiques fit into the proposed ordinance and noted that the holding period is too severe. The busiest time of the year for her is June, July and August. She asked to be excluded from the requirements of the ordinance.

Hellquist questioned whether such ordinance should be driven by the county rather than the city. He asked what other cities are on board. Preece noted that there are approximately 450 Police Departments in Minnesota – 125 are currently on the system. Hellquist suggested further discussion by the Council regarding the need for more law enforcement officers.

Downs suggested that, given the fact that the proposed APS system would reduce the workload at the Police Department, it might be possible to reduce the fee to \$1.00 to cover the cost to the City to participate in the APS. He also discussed the possibility of raising the minimum transaction amount.

There being no further comments, the public hearing closed.

Minke recapped the discussion as follows:

- Increased law enforcement is top priority for city
- Based on the discussion presented, Council must determine:
 - The minimum transaction amount,
 - Whether antique dealers should be exempt from the ordinance,
 - Whether there should be a fee per transaction and if so, what the fee should be.

Council discussed the proposed fee of \$1.50 per transaction, which is intended to cover the cost of enforcement. Concerns were expressed about the cost to businesses to purchase the equipment required to implement the system. Motion, second by Erickson to delete the transaction fee referred to in Subd. 7 of the proposed ordinance. Motion failed on the following 5-2 vote: Ayes: Markeson, Erickson. Nays: Lehmann, Hellquist, Johnson, Downs, Meuers

It was then suggested that the fee be reduced to \$1.00 for a couple of years to allow businesses an opportunity to charge a fee to recover their cost for installing the equipment.

Motion by Hellquist, second by Downs, to change the fee to \$1.00 per transaction and amend the minimum transaction referred to in Subd. 2J #9 from \$15 to \$20. Motion carried by unanimous vote

Brand will draft amended language prior to the final reading.

AN ORDINANCE AMENDING CHAPTER 6 OF THE 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 ADOPTING, ESTABLISHING AND IMPLEMENTING THE USE OF THE AUTOMATED PAWN SYSTEM (APS) IN FURTHERANCE THEREOF was given a 2nd reading.

➤ **Ordinance Amending the 2005 Fee Schedule** - Pursuant to published notice, the Council held a public hearing to consider proposed amendments to the 2005 Fee Schedule to include billable transaction fees for pawnbrokers, secondhand and precious metal dealers.

Police Chief Bruce Preece noted that approximately 40-50 percent of transactions that take place inside the City are from customers outside city limits.

Shawn Hyde and Chad Plante, Ideal Pawn, asked the City to split the cost of the program between the City and the business, based on the reduction in work load by Police Department personnel. Motion by Downs, second by Markeson, to split the \$1.00 fee per transaction between the city and the business. It was noted that the city will be charged \$1.00 per billable transaction to participate in the APS. If the fee is not passed on to the business, the cost will be covered by the Police Department budget. Detective Sergeant Johnson noted that the department still needs a technical person to look the transactions. The APS will give the police access to property that may be stolen from Bemidji and pawned in other cities. The motion was withdrawn.

Motion by Hellquist, second by Meuers, to reduce the proposed billable transaction rate to \$1.00, to be reviewed after one year to see how that affects our system. Motion carried by the following 6-1 vote: Ayes: Downs, Meuers, Erickson, Johnson, Lehmann, Hellquist. Nays: Markeson.

AN ORDINANCE AMENDING THE 2005 FEE SCHEDULE was given a 2nd reading.

- **Ordinance Establishing Fees For Emergency Protection Fire Services** - Pursuant to published notice, a public hearing was held to consider an Ordinance Establishing Fees for Emergency Protection Fire Services.

Minke distributed a proposed amendment to Section 3 (*Parties Affected*) adding the following language:

“provided that a jurisdiction participating under the contract authorizes the City to impose fire service charges within that jurisdiction”.

Minke noted that the City does not have authority to bill for services outside city limits unless there is an agreement with the jurisdiction.

Mayor Lehmann opened the public hearing and invited those present to address the issue.

Jim Aylesworth, Volunteer Firefighter, spoke in opposition to the ordinance noting the City should be trying to help victims, not penalize them by charging for a service in the time of need. He questioned fire service was being singled out – why not police service? He expressed concerns that victims may try to put out fires themselves rather than call for help and questioned whether the City aggressively pursues the charge even if there is no insurance. He questioned what the city does if the homeowner’s insurance does not pay and suggested the possibility of discrimination.

Preece noted that the Police Department charges for services such as contact officers and nuisance call responses and receives a percentage of traffic ticket fines.

Assistant Attorney Brand noted that the city currently has the ordinance in effect – the only change is the remedy if the charge is not paid. This amendment is required to allow the City to place unpaid charges on property tax.

Erickson suggested the need for additional information before making a decision on this issue. Motion by Erickson, second by Meuers, to continue the 2nd reading of this ordinance amendment to the June 6th meeting. Motion carried by unanimous vote.

- **Ordinance Establishing Speed Limits for Snowmobile Trails** - Pursuant to published notice, a public hearing was held to consider an ordinance establishing speed limits for snowmobile trails within city limits. Mayor Lehmann opened the public hearing and invited those present to comment on the proposed ordinance. No one appeared. The public hearing was closed.

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 2nd reading.

- **Ordinance Vacating a Portion of 7th Street Between America & Minnesota** Pursuant to published notice, a public hearing was held to consider an ordinance vacating a portion of 7th Street between America & Minnesota. Mayor Lehmann opened the public hearing and invited those present to comment on the proposed ordinance. No one appeared. The public hearing was closed.

AN ORDINANCE AMENDING AN UNCODED SECTION OF THE BEMIDJI CITY CODE PERTAINING TO VACATION OF A PORTION OF 7TH STREET (Planning Case 2005-05) was given a 2nd reading.

- **Ordinance Regulating Landscaping, Open Space/Green Space** - Pursuant to published notice, a public hearing was held to consider an ordinance amending Chapter 13 of the Bemidji City Code regulating landscaping, open space/green space. Mayor Lehmann opened the public hearing and invited those present to comment on the proposed ordinance. No one appeared. The public hearing was closed.

AN ORDINANCE AMENDING CHAPTER 13 OF THE BEMIDJI CODE TITLED ZONING REGULATIONS (regulating landscaping, open space/green space) was given a 2nd reading.

- **Ordinance on Tree Preservation/Replacement** - Pursuant to published notice, a public hearing was held to consider an ordinance amending the City Code by adding Chapter 14 titled Tree Preservation and Replacement. Mayor Lehmann opened the public hearing and invited those present to comment on the proposed ordinance. No one appeared. The public hearing was closed.

AN ORDINANCE AMENDING THE CITY CODE BY ADDING CHAPTER 14 TITLED TREE PRESERVATION AND REPLACEMENT was given a 2nd reading.

DDA PLANNING PROCESS

Minke noted that the Downtown Development Authority has begun a process of visioning for the downtown area and would like to apply for a grant from the Northwest Minnesota Foundation to pay 50% of the cost of the visioning and planning process. Northwest Minnesota Foundation only awards grants to non-profit organizations. The DDA is organized as a 501C4 corporation and is ineligible to serve as a grant recipient. DDA President Mike Smith requested that the City serve as the fiscal agent for their grant application. Minke noted that the City would serve only as the fiscal agent and not be involved in the actual grant implementation. The DDA proposes to work with Headwaters Regional Development Commission for consulting services to lead the process and ensure the grant conditions are met. Motion by Meuers, second by Johnson, authorizing the City to serve as the fiscal agent for this project and to submit the grant application to the Northwest Minnesota Foundation. Motion carried by unanimous vote.

COMMITTEE ASSIGNMENT

Erickson and Markeson requested a trade of committee assignments as follows:

- Erickson to move from the Bemidji Race Relations Committee to the Housing & Redevelopment Authority
- Markeson to move from the Housing & Redevelopment Authority to the Bemidji Race Relations Committee.

Motion by Hellquist, second by Meuers, to approve the reassignments as requested. Motion carried by unanimous vote.

TRAVEL REIMBURSEMENT

Meuers requested travel reimbursement for a trip to St. Paul on Wednesday, May 4 for lobbying with the Coalition. Motion by Hellquist, second by Meuers, to approve the travel. Motion carried by unanimous vote.

INDUSTRIAL PARK REZONING

Downs requested Council discussion regarding rezoning the Industrial Park back to I-1 (light industry). He expressed concerns that I-3 (heavy industry) is not compatible with Bemidji's vision for the future. Minke noted that the Council has the authority to initiate a rezoning request on their own. He suggested that the Council may want to direct staff to draft an ordinance for consideration by the Planning Commission at their May 23 meeting. Motion by Downs, second by Johnson, directing the City Manager to prepare a request for Planning Commission consideration to rezone the Industrial Park from I-3 to I-1. Motion carried by unanimous vote.

AUTHORIZE JOINT POWERS AGREEMENT WITH THE STATE OF MN (Pertaining to the Identix IBIZ RDT Unit – Portable Fingerprinting System)

Erickson requested removal of this item from the Consent Agenda because she wanted the public have a better understanding of the request. Minke noted that this is a pilot program with the State of Minnesota Bureau of Criminal Apprehension (BCA) for the use of a portable fingerprinting system. The City of Bemidji was one of two outstate agencies offered this opportunity. The equipment is being assigned to the Sergeant's vehicle. The technology will allow the Police Department to identify suspects in the field rather than having to bring the suspect to the Law Enforcement Center. If there is no match on a suspect, the electronic fingerprint data is destroyed. The BCA will provide the necessary

equipment. The City is responsible to provide the cellular access and related maintenance for the unit. Total cost is estimated at \$1,600 per year.

Motion by Erickson, second by Downs, authorizing the City Manager to enter into the Joint Powers Agreement with the State of Minnesota for this equipment. Motion carried by unanimous vote.

ORDINANCE NO. 400, 2ND SERIES, An Ordinance Amending the Zoning Map Adopted in Chapter 13, Section 13.08 of the Bemidji City Code (Planning Case #2004-27 – Westwood Acres) was given a final reading and passed by unanimous vote.

ORDINANCE NO. 401, 2ND SERIES, An Ordinance Amending Section 2.04 of the City of Bemidji Council-Manager Charter (Pertaining to Incompatible Offices) was given a final reading and passed by unanimous vote.

UPCOMING MEETINGS

May 3 – Board of Review – 7 p.m. at City Hall

May 23 – 5:30 pm - Work Session – Deer Management @ City Hall

ADJOURN

There being no further business, motion by Downs, second by Meuers, to adjourn the meeting. Motion carried. Meeting adjourned at 12:00 midnight.

Respectfully submitted,

Shirley Sherman, City Clerk