

COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – February 21, 2023

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 21, 2023 at 6:00 p.m. in the Council Chambers of City Hall, Mayor Prince presiding.

Upon roll call, the following Councilmembers were declared present: Prince, Peterson, Johnson, Rivera, Thayer. Absent: Eaton.

Staff Present: City Attorney Katie Nolting, Finance Director Ron Eischens, City Engineer Sam Anderson, Assistant City Engineer Jenna Roberts, Parks and Recreation Director Marcia Larson, Police Chief Mike Mastin, Fire Chief Justin Sherwood, Building Official Todd Beito, Rental Inspector Ben Hein, City Clerk Michelle Miller. Sanford Center General Manager Sheila Murphy and Sanford Center Assistant General Manager Bobby Anderson.

AMENDMENTS TO AGENDA

Mayor Prince called for any amendments to the agenda. **Motion by Rivera, seconded by Prince, to approve the agenda as presented. Motion carried by unanimous voice vote.**

MINUTES

The following minutes were presented for approval:

Council Meeting: January 17, 2023
Work Session: January 23, 2023

Motion by Johnson, seconded by Peterson, approving minutes as presented. Motion carried by unanimous voice vote.

STATE OF THE CITY ADDRESS

Mayor Prince presented the State of the City Address for 2022.

CONSENT AGENDA

Mayor Prince called for any amendments to be made to Consent Agenda. Prince requested MRCTI Travel Authorization and Appointment of Bryan McCoy to the Joint Planning Board be added to the consent agenda. Staff requested that the By-Laws of the Sustainability Commission be removed. The following Consent Agenda items were presented for approval. **Motion by Rivera, seconded by Peterson, to approve Consent Agenda items as follows:**

1. Claims Submitted by Finance Officer in the Amount of \$392,842.88
2. Claims Submitted by ASM Global for the Sanford Center in the Amount of \$79,674.45
3. Approve December 2022 Financial Statements from ASM Global for the Sanford Center
4. 2023 Business License Approvals
5. Approve Appointment of Cecelia McKeig to Heritage Preservation Commission
6. Approve Appointment of Bryan McCoy to the Joint Planning Board
7. Approve Purchase of Replacement Salt Shed Fabric Cover (Streets)
8. **RESOLUTION NO. 6473:** Establishing City of Bemidji Ballot Board for April 11, 2023 Special Election
9. Approve Council Travel Authorization – 2023 LMC Annual Conference (Duluth) June 21-23, 2023 – Prince, Thayer
10. Approve Council Travel Authorization – 2023 MRCTI Capitol Meeting (Washington DC) March 1-2, 2023 – Prince

Motion carried by the following roll call vote: Yeas: Rivera, Peterson, Johnson, Thayer, Prince. Absent: Eaton.

CITIZENS WITH BUSINESS NOT ON AGENDA

- CT Marhula, 4924 Birchmont Drive NW, #10 provided comments on committees

NEW BUSINESS

Consider Sale of Real Property (Parcel 80.00461.02)

Nolting reported that the City has received a signed purchase agreement from Holiday Stationstores, LLC, for the purchase of city owned property located on Moberg Drive NW, Parcel No. 80.00461.02, in the amount of \$1,302,000. Upon approval of the purchase price and purchase agreement, staff will begin the ordinance process to effectuate the sale of property to Holiday Stationstores, LLC.

Motion by Peterson, seconded by Thayer, approving the sale of real property as presented to Holiday Stationstores, LLC, in the amount of \$1,302,000 and to direct staff to draft an ordinance for first reading for the next regular council meeting. Motion carried by the following unanimous roll call vote: Yeas: Johnson, Prince, Peterson, Thayer, River. Absent: Eaton.

Consider Amendment of Quote for PFAS Treatment of Dewatering Water for Gillett Lift Station Project – City Project 21-08

Anderson summarized for council that in September, 2022, Council approved a quote for the treatment of dewatering water related to the Gillett Lift Station project that needed to be completed as part of Phase 2 of the Water Treatment Plant.

Due to the volume of water that will be pumped it was necessary to apply for a DNR dewatering permit. Normally these permits are quite easy to obtain. However, during the DNR's review of our application they noted the proximity of the lift station to the airport PFAS site and they submitted our permit application to the MPCA for review. The MPCA required that sample and test the groundwater in the proposed dewatering area for PFAS compounds. We took two samples at each of four locations and we tested each sample for 7 PFAS compounds. In total, there were 56 tests run for the various compounds. There were two cases (of the 56) where the samples tested slightly above the Heath Based Values (HBV). In one of those the sample for PFAS came in at 16 ppt and the HBV is set at 15 ppt. The other tested at 49 ppt for PFHxS and the HBV is set at 47 ppt.

Based on these test results the MPCA and the DNR are requiring that the City bring a portable GAC treatment plant on site and treat all the dewatering discharge water for PFAS compounds. They will not allow the dewatering water to be discharged overland due to the two samples that exceeded the HBV by 1-2 parts per trillion.

As the temporary treatment system was setup and running, it was determined that the assumptions for size of the system to keep up with the needs of the project weren't enough. Staff worked directly with Clean Harbors to upsize some of the components in a short period of time to get the project completed before freeze-up this past fall.

The original estimated cost for the portable plant was around \$80,000. With the upsizing of the plant and updated scope to include final determination on disposal of the used carbon (GAC), the final cost of the treatment system to Clean Harbors will be around \$180,000 which will be funded from the water utility fund. Anderson also noted that the cost of treating the water is not included in the \$180,000.

Motion by Thayer, seconded by Peterson, approving the amended quote in the amount of \$180,000 with Clean Harbors Environmental Services for the Gillett Lift Station – City Project 21-08. Motion carried by the following roll call vote: Yeas: Prince, Rivera, Thayer, Johnson, Peterson. Absent: Eaton.

Update and Consider Partial Allocation of American Rescue Plan (ARP) Funds

The City received \$1.7 million in ARP funding, of which \$207,000 has been spent or allocated on the following:

- Paul & Babe restoration - \$187,000
- Parks Natural Playground - \$ 20,000

Remaining ARP balance = \$1.48 million

ARP Funds must be spent by December 31, 2024 or have contracts in place by that time.

Eligible uses of the ARP Funds

ARP Funds may be used for any purpose or service normally performed by the City. Examples include, but are not limited to:

- Staff one time inflationary adjustments
 - On-going cost of living increases to be discussed during budget meetings
- External wage scale review
- Parks and Trails improvements
- Street construction - including street light pole replacement
- City Hall/Fire Hall maintenance/improvements
- City cold storage building
- Waste water treatment plant clarifier project
- Sanford Center capital improvements

City Department Heads met to discuss their recommendations for these funds, which are listed above in priority order and ask your consideration of the following for ARP Fund uses:

- One-time staff inflation adjustment payment - employees recognize union contracts were negotiated and agreed to through 2024. However, the recent pace of inflation is something not seen in several decades. It is an important consideration that employees be treated

equally in regards to the dollar amount of this one-time payment of \$2,000 for full-time staff and \$500 for permanent part-time staff. This suggestion is not the typical "cost of living" adjustment giving each employee a percentage increase on their rate of pay. Total projected cost \$290,000.

- Market rate compensation study - the City periodically hires its Human Resource consultant to conduct a market rate study to determine how the City pay scale performed versus comparable cities used in the most recent 2019 wage study. If comparable cities had higher annual "cost of living increases" than Bemidji, the consultant would recommend how to adjust the City pay scale to account for this, including job classes (i.e. police) needing larger increases to be competitive. As a local comparison, Beltrami County increased their pay scale 10% as follows: 3% cost of living increase July 2022, 3% pay scale increase 2022; 4% cost of living increase January 2023. Keeping the City pay scale competitive is one tool to aid in retention and recruitment. City recently had employees leave to the Hubbard and Beltrami County and other local employers, with one of the main reasons being higher wages. The information gained from this study would be helpful as the Council looks to the 2024 budget process and future union negotiations. Estimated cost - \$15,000.
- City Capital needs - in the following areas:
 - Parks and Trails - maintenance and improvements
 - Street construction project funding to maintain street conditions
 - Highway 197 Street light pole replacement
 - Cold storage facility at Public Works
 - WWTP Clarifier project to cover escalated costs
 - Sanford Center capital

Motion by Rivera, seconded by Thayer, approving the one-time staff inflation adjustment and market rate pay study and to schedule a work session to discuss how to allocate the remaining ARP funds of \$1.18 million. Motion carried by the following roll call vote: Yeas: Thayer, Johnson, Rivera, Peterson, Prince. Absent: Eaton.

Consider Painting and Carpet Replacement Quote for the Administrative Offices of the Sanford Center
 Murphy reported to Council that the administrative offices within the Sanford Center have not been painted nor had carpet replaced since the building was constructed in 2010. This area is the first impression customers, possible sponsors and promoters get when they enter the building.

The carpet is worn in many places, discolored from salt, walls are scuffed and it makes the office look old, uncared for and dated. It does not physically reflect the industry, level of professionalism or success it should be displaying. It is embarrassing to bring potential \$100,000 sponsors to these offices as it does not show the building is up to date and taken care of. ASM Staff believe this is a high priority building need and time is of the essence to complete.

Staff obtained two quotes for the proposed work:

- Christiansen Construction \$69,972.00
- Dave Levy Construction \$75,570.00

The project would be partially funded from the remaining balance of the \$200,000 CIP fund ASM provided the City which is \$33,142. The balance of \$36,830 would come from the City's Sanford Center CIP fund is \$822,000 as of December 31, 2022.

Motion by Peterson, seconded by Thayer, approving the quote to Christiansen Construction in the amount of \$69,972 for painting and carpet replacement of the administrative offices at the Sanford Center. Motion carried by the following roll call vote: Yeas: Peterson, Thayer, Prince, Rivera, Johnson. Absent: Eaton.

Discuss Ordinance Amending Bemidji City Code, Chapter 10, Article II, Relating to Rental Housing Registration Code

Nolting summarized to Council that on March 29, 2021 the Council created an Ad Hoc Rental Committee to review the City's Rental Code and make recommendations for possible changes and amendments to the Code. The Committee consisted of Council Members, the City Manager, Rental Inspector, the Police Department, the City Attorney's Office, and the Headwaters Landlord Association. This Committee worked diligently for approximately one and a half years.

The product of this ad hoc committee was sent to the full City Council for the October 17, 2022 Council Meeting (hereinafter Option 1). A first reading of the recommended amendments to the Rental Code took place on October 17, 2022 and November 7, 2022.

A public hearing took place on November 21, 2022. After the public hearing, the 2nd reading of the Ordinance was then continued based on comments and direction of the City Council to make recommendations. The Council directed staff to make recommendations in regards to the number of individuals that should be allowed in a rental property and how to determine that number in order to ensure the safety of the tenants.

Two other options were brought before the Council, along with the continued 2nd Reading of the Rental Committee's recommendations, were presented to the Council on December 19, 2022. At that meeting, the Council determined to terminate the ordinance process on the Rental Committee's recommendations. The Council also decided to hold a listening session with the public in regards to changes to the Rental Ordinance.

On Monday, February 13, 2023 the Council held a listening session in regards to the amendments to the rental ordinance. There was public testimony from nine (9) members of the public. A number of citizens giving testimony were members of the Headwaters Landlord Association, who all indicated that they do not oppose the amendments that came from the Rental Ordinance Committee, but if any changes were made, they would support using the Fire Code, not the Building Code, and determining occupancy based on bedroom square footage. Other members of the public expressed concerns about landlords who are not following the rules and how that can detrimentally effect tenants, and who is conducting maintenance of rental properties.

With the listening session now complete, Staff is now looking for direction from the Council as to what amendments, if any, should be made to the rental ordinance. If the Council decides one of the three options that have been proposed to the Council should be moved forward, Staff will schedule a first reading for the March 6, 2023.

Staff's recommendation is to move forward with Option 1, with one additional amendment. That amendment being, that the ordinance will require that tenants be given a copy of any inspection report completed for their unit. This amendment will give tenants the information to make informed decisions about how to best use their rental unit, and know about any concerns that need to be addressed in their rental unit.

In regards to concerns about egress windows, Option 1, with the removal of the limit of only 4 non-related individuals or a family from the Rental Ordinance, would then have any rental properties comply with the Minnesota Building Code. For rental properties that already exist and is licensed in the City as rental property, this would mean that any building would have to comply with the Building Code for the year it was built. Any new rental properties licensed AFTER the passing of this ordinance would have to comply with the current Minnesota Building Code. If a landlord who already has a rental license decides to modify any portion of the rental unit (i.e. making a window bigger than the space right now), those changes would have to comply with the current Building Code.

Option 1 also would also alleviate any concerns about parking. Under Option 1, the rental license would specifically state how many parking spaces are available for that unit. This would be required to be disclosed to the tenant. If tenants have more vehicles than spaces allowed, the tenants will be required to determine how to legally find parking.

Consensus was for Councilmembers to provide information to the City Attorney setting forth proposed changes or language for the Amended Rental Code to discuss at an upcoming work session.

Consider Process for Annual Performance Evaluation of City Manager

Mathews provided a proposal for Council consideration for process of the annual performance evaluation of the City Manager scheduled for March 29:

1. Individual meetings with each City Councilmember.
2. Mathews will submit a list of his specific goals and priorities for the upcoming year, based on what he believes the City and the Department Heads should be working on.
3. The City Council will provide a list of formal goals and specific priorities.
4. Council will complete a survey of 18 questions suggested by Mathews.

Upon discussion council directed the City Attorney to obtain the following clarifications from the City Manager related to the process of the annual performance evaluation:

- Council requested to review the eight questions from the survey that were eliminated from the City Manager proposal, to ensure they are not questions they feel should be appropriately included.
- Council requested clarification from the City Manager if the intent of the one-on-one meetings were being proposed to take the place of the full Council Meeting with all the Council Members

present, which is currently scheduled for March 29, 2023, or if the one-on-one meeting proposal was in addition to the full Council Meeting evaluation.

Additionally, Council directed the City Attorney to obtain an estimate from Brandon Fitzsimmons of Flaherty and Hood Law Firm of what it may cost the City if Mr. Fitzsimmons were to be retained by the Council to assist in the facilitation of negotiating the process for the City Manager’s Annual Performance Evaluation, and to continue the representation through the City Manager’s Performance Evaluation with whatever process is agreed upon by the Parties.


UPCOMING COUNCIL MEETINGS

- Monday, March 6 6:00 p.m. Council Meeting
- Monday, March 13 5:30 p.m. Work Session (Airport Planning – Area 3)
- Monday, March 20 6:00 p.m. Council Meeting
- Monday, March 27 5:30 p.m. Work Session
- Wednesday, March 29 5:00 p.m. City Manager Performance Evaluation

ADJOURN

There being no further business, motion by Peterson, seconded by Johnson, to adjourn the meeting. Motion carried. Meeting adjourned at 8:38 p.m.

Respectfully submitted,


Michelle R. Miller
City Clerk