

COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – April 3, 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 Monday, April 3, 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, Eaton, Thayer

Staff Present: City Manager Nate Mathews, City Attorney Katie Nolting, City Engineer Sam Anderson, Assistant City Engineer Jenna Roberts, Police Chief Mike Mastin, Parks and Recreation Director Marcia Larson, Fire Chief Justin Sherwood, Assistant City Attorney Andrea Kingbird, Rental Inspector Ben Hein, Building Official Todd Beito, Building Inspector Jim Latzke, Sanford Center General Manager Sheila Murphy, Sanford Center Director of Sales and Marketing Ethan Rogers, City Clerk Michelle Miller, Brandon Fitzsimmons with Flaherty and Hood.

AMENDMENTS TO AGENDA

Mayor Prince called for any amendments to the agenda.

Motion by Rivera, seconded by Eaton, to remove agenda item number 20 entitled “Summary of Conclusions of Non-Annual Performance Evaluation of City of Bemidji City Manager Pursuant to Minnesota Statutes Section 13D.05, Subd. 3”. Upon advice from Fitzsimmons, Rivera added the following clarification to the motion: Rivera moved that the evaluation commenced in closed session of the City Council meeting on March 29, 2023 was not complete and therefore there are no conclusions of the evaluation and correspondingly no requirement to nor anything to summarize under law. Motion failed by the following roll call vote: Yeas: Rivera, Eaton. Nays: Peterson, Johnson, Thayer, Prince.

Motion by Thayer, seconded by Peterson, to add agenda item under new business: Preliminary Resolution Regarding Removal of City Manager. Motion carried by the following roll call vote: Yeas: Peterson, Prince, Johnson, Thayer. Nays: Eaton, Rivera.

Motion by Johnson, seconded by Thayer, to add agenda item under new business: Performance of City Manager Duties and Responsibilities. Motion carried by the following roll call vote: Yeas: Johnson, Prince, Eaton, Johnson, Peterson, Thayer. Nays: Rivera.

Prince recessed the meeting at 6:21 p.m. The meeting was reconvened at 6:26 p.m. with all members present.

Motion by Peterson, seconded by Johnson, to approve the agenda as amended. Motion carried by the following roll call vote: Yeas: Prince, Thayer, Johnson, Eaton, Peterson. Nays: Rivera.

MINUTES

The following minutes were presented for approval:

Council Meeting: March 6, 2023

Motion by Rivera, seconded by Thayer, approving minutes as presented. Motion carried by unanimous voice vote.

CONSENT AGENDA #1

Mayor Prince called for any amendments to be made to Consent Agenda. Thayer requested that the Claims Submitted by ASM for the Sanford Center, Special Event Permit for Babe's Burnout Carshow, and Resolution Supporting No Mow May be removed for discussion. The following Consent Agenda items were presented for approval. **Motion by Peterson, seconded by Johnson, to approve Consent Agenda #1 items as follows:**

- 1) Claims Submitted by Finance Officer in the Amount of \$876,799.48
- 2) 2023 Business License Approvals
- 3) Approve February 2023 Financial Statements from ASM Global for the Sanford Center
- 4) Approve Special Event Permit for March for Jesus (May 20)
- 5) Approve Special Event Permit for MN Lion DFeet Hearing Loss Walk (June 3)
- 6) Approve Special Event Permit for Take a Kid Fishing (June 7)
- 7) Approve Special Event Permit for Bemidji Folk Festival (June 17)
- 8) **RESOLUTION NO. 6481:** Approving the Temporary Off-Premises Alcohol Permit for Babe's Burnout Carshow
- 9) **RESOLUTION NO. 6482:** Adopting the Amended Minnesota General Records Retention Schedule for Cities
- 10) Approve Purchase of Refuse Containers

- 11) Approve Change Order #1 for Real Solar in the Amount of \$4,744.43
- 12) Declare Equipment Surplus and Authorize Disposal (Police)

Motion carried by the following roll call vote: Yeas: Thayer, Johnson, Eaton, Rivera, Peterson, Prince. Nays: None.

CONSENT AGENDA #2

Mayor Prince called for any items to be pulled from consent agenda #2. The following Consent Agenda item was presented for approval. **Motion by Johnson, seconded by Thayer, approving Consent Agenda #2 as follows:**

- 1. Claims Submitted by Finance Officer for VisitBemidji in the Amount of \$29,487.78

Motion carried by the following roll call vote: Yeas: Thayer, Prince, Rivera, Eaton, Johnson. Peterson abstained for the reason being that he is the Executive Director of Visit Bemidji.

CITIZENS WITH BUSINESS NOT ON AGENDA

Mary Ann Reitmeier, 4819 Birchmont Drive NE, provided comments on council actions.

PUBLIC HEARING

Public Hearing for Three Less One Inc. (dba Bar 209) for the Seasonal Expansion of Liquor License Regarding Outdoor Dining - Consider Permit for Street Café and Seasonable Expansion of Liquor License (2023)

Pursuant to published notice, a Public Hearing was held to receive input regarding a Permit for Three Less One Inc. (Bar 209) for the Seasonable Expansion of Licenses Regulating Outdoor Dining. Mayor Prince opened the Public Hearing at 6:39 p.m., hearing no comments, the public hearing was closed at 6:40 p.m.

Staff stated that the applicant will submit an updated site plan showing three parking spaces. Staff also provided clarification of the speakers being used outside.

Motion by Peterson, seconded by Eaton, approving the permit to Three Less One, Inc. (Bar 209) for the Seasonable Expansion of Liquor License and Street Dining for three parking spaces. Motion carried with the following unanimous roll call vote: Yeas: Eaton, Prince, Peterson, Thayer, Johnson, Rivera.

ORDINANCES

An Ordinance Amending Chapter 10, Article II of the Bemidji City Code Relating to Rental Housing Registration Code was given a first reading.

ORDINANCE NO. 196 Amending an Uncoded Section of Bemidji City Code (Authorizing the Sale of Real Property) – Holiday Stationstores, LLC was given a final reading and passed by the following roll call vote: Yeas: Rivera, Peterson, Johnson, Thayer, Prince, Eaton.

Motion by Peterson, seconded by Johnson, approving publication of a summary of Ordinance No. 196, 3rd Series. Motion carried by unanimous voice vote.

NEW BUSINESS

Summary of Conclusions of Non-Annual Performance Evaluation of City of Bemidji City Manager Pursuant to Minnesota Statutes Section 13D.05, Subd. 3

Prince read into the record the following: "On March 29, 2023, the City Council held a closed meeting for the purposes of a non-annual evaluation of the performance of the City Manager Nate Mathews. In accordance with the Minnesota Open Meeting Law, the City is required to summarize the conclusions of the evaluation reached by the City Council at its next regular meeting. The summary of the conclusions reached by the City Council at its March 29, 2023 evaluation is that the City Council has lost confidence and lacks trust in City Manager Mathews' ability and willingness to effectively perform as City Manager and that he should be considered for placement on leave and removal from employment with the City."

Preliminary Resolution Regarding Removal of City Manager

RESOLUTION NO. 6483: Preliminary Resolution to Remove and Suspend City Manager Nate Mathews, was offered by Councilmember Thayer, who moved its adoption as follows:

WHEREAS, Nate Mathews is employed as City Manager for the City of Bemidji; and

WHEREAS, under City of Bemidji Council-Manager Charter, Section 6.01, the City Council may remove the City Manager and suspend the manager from duty; and

WHEREAS, Charter, Section 6.01 requires that the removal and suspension be specified in an adopted preliminary resolution, including the reasons for the removal; and

WHEREAS, Charter, Section 6.01 specifies that the preliminary resolution must be adopted at least 30 days before the removal; and

WHEREAS, the City of Bemidji City Council desires to remove and suspend City Manager Nate Mathews from employment with the City of Bemidji.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEMIDJI, MINNESOTA, the following:

1. City of Bemidji City Manager Nate Mathews is hereby suspended from duty with the City of Bemidji with pay and benefits, effective upon approval of this resolution by the City Council.
2. City of Bemidji City Manager Nate Mathews is removed from employment with the City of Bemidji, effective May 3, 2023, which would be his last date of employment with the City of Bemidji, subject to any modification of such based on rights of the City Manager under City Charter.
3. The City Council determines that the reasons for the removal are as follows:
 - A. City Councilmembers have lost confidence and lack trust in City Manager Nate Mathews' ability and willingness to completely and effectively be the chief administrative officer of the city, be responsible to the council for the administration of the city's affairs, and move the City forward.
 - B. This loss of confidence and lack of trust has primarily resulted from:
 - i. City Manager Nate Mathews' certain insufficient, untimely, unclear, selective, and unprofessional communications with City Council members, City employees, and the public on substantive City business.
 - ii. Concerns expressed about such communications and related conduct by members of the public and others with whom the City works with.
 - iii. City Manager Mathews reluctance to sufficiently, completely, and uniformly communicate with City Council members on all substantive City business and comply with City Council direction.
 - C. The foregoing has resulted in disharmony between and among City Manager Nate Mathews and the City Council and not being able to work effectively together.
 - D. The foregoing has an adverse impact on and substantially impairs City administration and City Council morale, operations of the City, and the City Council's ability to establish policy.
 - E. The City Council determines it is in the best interest of the City of Bemidji that City Manager Nate Mathews no longer be employed as City Manager with the City of Bemidji.
4. Mayor Jorge Prince and City Councilor Lynn Eaton consult with legal counsel to communicate with City Manager Nate Mathews as necessary related to this resolution and any requests he makes and submit appropriate communications to the City Council on these communications.

Upon due seconded by Mayor Prince, was passed by the following roll call vote: Yeas: Peterson, Prince, Johnson, Thayer. Nays: Eaton, Rivera.

Performance of City Manager Duties and Responsibilities

Fitzsimmons stated that under the City Charter, only the council can appoint a city manager. Now that the resolution has been approved, placing the city manager on leave, the council has two options: (1) require the city manager designate a properly qualified person or current city employee to perform the duties of the city manager during his absence or the office is vacant, with equivalent pay, or (2) designate the city clerk to perform the duties and responsibilities of the city manager during his absence or the office is vacant, with equivalent pay.

Motion by Thayer, seconded by Eaton, designating the City Clerk to Perform the Duties and Responsibilities of the City Manager, during his absence or the office is vacant and the City Clerk be paid additional pay equivalent to the difference between the City Clerk's actual salary and the City Manager's actual salary. Motion carried by the following roll call vote: Yeas: Johnson, Prince, Eaton, Peterson, Thayer. Nays: Rivera.

Consider Award of Bid for 2023 Street Renewal Project – City Project 23-01

Anderson stated that on December 20, 2021 the City Council considered the feasibility report for the proposed 2023 Street Renewal Project. It was determined to proceed with design and bidding of only Mississippi Avenue NW with no proposed assessments. The streets that are proposed to be included in the 2023 program are:

Mississippi Avenue NW 5th Street NW – 12th Street NW

A bid opening for the project was held on Tuesday, March 28th, 2023 and the following six (6) bids were received:

<u>Bidder</u>	<u>Total Bid</u>
Northern Paving, Inc.	\$1,937,000.00
Sparky’s Construction, Inc.	\$1,947,211.95
Reiersen Construction	\$2,045,575.42
Kuechle Underground	\$2,346,225.59
RL Larson Excavating	\$2,405,543.05
Casper Construction	\$2,182,075.00
 City Engineer’s Estimate:	 \$1,835,000.00

The total bid amount of \$1,937,000.00 will result in a total project cost of approximately \$2,227,550.00 after design engineering and construction inspection costs are added in. This is roughly \$300,000 more than the amount that was estimated in the feasibility report in December. Funding sources are proposed to come from the following sources:

Sanitary Sewer Utility Fund	\$ 568,452
Water Utility Fund	\$ 526,923
Storm Sewer Fund	\$ 500,823
General Tax Levy	\$ 385,000
<u>Construction Fund Reserves</u>	<u>\$ 246,302</u>
Total:	\$2,227,550

Motion by Eaton, seconded by Rivera, awarding the bid to Northern Paving, Inc. in the amount of \$1,937,000.00 for the 2023 Street Renewal Project – City Project 23-01. Motion carried by the following roll call vote: Yeas: Prince, Rivera, Thayer, Johnson, Eaton, Peterson.

Claims Submitted by ASM Global for the Sanford Center in the Amount of \$97,095.79

Thayer inquired of the practice of giving gifts to artists. Thayer and Rivera inquired of the vendor Performance Food Service charges.

Motion by Peterson, seconded by Eaton, approving the claims submitted by ASM Global for the Sanford Center in the Amount of \$97,095.79. Motion carried by the following roll call vote: Yeas: Thayer, Johnson, Eaton, Rivera, Peterson, Prince.

Approve Special Event Permit for Babe’s Burnout Carshow (July 14-16)

Thayer inquired about the burnout area of the site plan and the noise associated with it. Rivera also inquired of the timing of the application and the noise and exhaust discharge from the vehicles. It was suggested to approve the special event permit without the burnout and dyno pad for further conversations with staff.

Motion by Peterson, seconded by Thayer, approving the special event permit for the Babe’s Burnout Carshow with the exception of the burnout and dyno area for further evaluation with city staff and Sanford Center staff. Motion carried by the following roll call vote: Yeas: Peterson, Thayer, Prince, Rivera, Eaton, Johnson.

Resolution Supporting “No Mow May”

Thayer asked that the Parks and Recreation Director speak about the No Mow May initiative. Larson provided comments and information regarding No Mow May. Erika Bailey Johnson with Birds, Bees and Butterflies commented on Earth month events on the BSU campus and also provided information on the No Mow May initiative.

RESOLUTION NO. 6484: Supporting a Temporary Exemption to Section 14-32(a)(1) of City Code, Maintenance of Private Property and Section 20-4(c) of City Code, Regulation of Grass, Weeds, and Trees, in Support of No Mow May was offered by Councilmember Rivera, who moved its adoption, and upon due second by Councilmember Thayer was passed by the following roll call vote: Yeas: Eaton, Prince, Peterson, Thayer, Johnson, Rivera.

UPCOMING COUNCIL MEETINGS

- Monday, April 10 5:30 p.m. Work Session (City Hall/Housing HHDC/HRDC)
- Tuesday, April 11 ALL DAY Ward 1 Special Election
- Friday, April 14 3:00 p.m. Canvassing Board
- Monday, April 17 6:00 p.m. Council Meeting
- Tuesday, April 18 5:30 p.m. Sp Work Session (2022 Financial Year End Review)

ADJOURN

There being no further business, motion by Eaton, seconded by Peterson, to adjourn the meeting. Motion carried. Meeting adjourned at 7:45 p.m.

Respectfully submitted,



Michelle R. Miller
City Clerk