

COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – May 1, 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, May 1, 2023 at 6:17 p.m. in the Council Chambers of City Hall, Mayor Prince presiding.

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

Staff Present: City Attorney Katie Nolting, City Engineer Sam Anderson, City Clerk/acting City Manager Michelle Miller, Deputy City Clerk Rachelle Barckholtz

AMENDMENTS TO AGENDA

Mayor Prince called for any amendments to the agenda. **Motion by Rivera, seconded by Eaton to add a new item setting a time to discuss code of conduct. Motion carried by the following roll call vote: Yeas: Rivera, Peterson, Johnson, Fiskevold Gould, Thayer, Prince, Eaton. Motion by Peterson, seconded by Johnson, to approve the agenda as amended. Motion carried by unanimous voice vote.**

MINUTES

The following minutes were presented for approval:

Work Session: March 27, 2023
Sp Council Meeting: March 29, 2023

Motion by Eaton, seconded by Peterson, 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. Fiskevold Gould requested Appointment of Donald Heinonen to the Merit Hearing Board be removed for discussion. Prince requested Grant Application Regarding Crime Victim Services be removed for discussion. The following Consent Agenda items were presented for approval. **Motion by Johnson, seconded by Eaton, to approve Consent Agenda items as follows:**

- 1) Claims Submitted by Finance Officer in the Amount of \$1,314,077.55
- 2) Claims Submitted by ASM Global for the Sanford Center in the Amount of \$56,415.30
- 3) Approve March 2023 Financial Statements for the Sanford Center
- 4) Approve Special Event Permit for Watermark Art Festival (July 15-16)
- 5) Approve Special Event Permit for Battered Women's Shelter De-Feet Violence Run (August 12)
- 6) Approve Special Event Permit for 2023 Mississippi Music Summer Concert Series
- 7) Approve Appointment of Jonathan Tody to Heritage Preservation Commission
- 8) Approve Appointment of Linda Kingery to the Sustainability Commission
- 9) Authorize Execution of Letter to Minnesota State Fire Marshall's Office Regarding Fire District
- 10) Authorize Execution of OJP Pathways to Policing Grant Agreement
- 11) Authorize Execution of Financial Crimes Task Force JPA with State of Minnesota (Police)

Motion carried by the following roll call vote: Yeas: Fiskevold Gould, Eaton, Rivera, Peterson, Prince, Johnson, Thayer. 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 \$40,783.17

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

CITIZENS WITH BUSINESS NOT ON AGENDA

- No appearance.

PUBLIC HEARING

MS4 Permit – Storm Water Pollution Prevention Program

Anderson reported that one of the requirements of the City's Municipal Separate Storm Sewer System (MS4) permit is that an annual meeting must be held to update the city council and to allow the public to make oral and/or written comments on the adequacy of the City's Storm Water Pollution Prevention Program (SWPPP). This meeting has been advertised as a public hearing and after a presentation by city staff the city council should ask for any public questions or comments.

The provisions of the permit require that over the 5-year life of the permit, we address the following six minimum control measures.

1. Public Education and Outreach
2. Public Participation / Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Storm Water Runoff Control
5. Post-Construction Storm Water Management for New Development & Redevelopment
6. Pollution Prevention / Good Housekeeping for Municipal Operations

The annual meeting satisfies one of the requirements of the first minimum control measures – public education and outreach.

Permit accomplishments from the past year (2022) include:

1. Completed 12 commercial site plan reviews within the city. Development and designs were reviewed for compliance with city and state runoff treatment and runoff requirements.
2. Articles were published in the city's newsletter about storm water management.
3. We updated our storm water system map in the City of Bemidji.
4. Inspected the condition of 35 of the 177 city storm sewer outlets and 4 out of 29 city storm water ponds in 2022.
5. Erosion Control Residential & Commercial Site Inspections for 2022 totaled 61 sites inspected, with a total of over 119 individual site inspections completed and documented over the course of the construction season.
6. The Street Department used the city's rubber tired back hoe on storm water maintenance. Refer to the items below for details:
 - Cleaning ends of culverts (outfalls)
 - Ditch dredging
 - Pond dredging (small ponds or swales)
 - Installing rip rap materials
7. There was 1,755 LF of storm sewer pipe cleaned.
8. 648 miles of street sweeping was completed which collected 500 cubic yards of street sweepings.
9. 12 manholes and catch basins had minor repairs completed on them.
10. 4 cubic yards of material was removed from storm sewer outfalls in ditches.

Anderson stated that staff will continue to expand the required work and provisions that the City of Bemidji needs to do for the MS4 Permit. Each year they evaluate and improve record keeping to provide the most accurate information on file for the MPCA, the public and the City of Bemidji.

Rain Barrel Program Update

Anderson further reported that one of the requirements of our MS4 Program is that the City is required to organize and complete a Public Involvement Activity each year. In 2022, the City implemented a rain barrel program through the Recycling Association of Minnesota (RAM) website that allows city residents to purchase rain barrels online at a discounted rate and reserve it for pick-up. Last year the City ordered 72 and were sold out. This year staff have pre-ordered 72 rain barrels and will receive shipment the end of April, with a scheduled pick-up date for those who have ordered online on June 14 from 8:30 a.m. – 4:30 p.m. Orders will be accepted online on a first come, first serve basis until all the barrels are purchased ahead of the pick-up date in June. As of the date of this report roughly half of the total quantity has been sold. Staff has determined, in order to keep the program going, to contribute \$60 of the \$90, plus to cover the sales tax owed for each unit, roughly \$67 total city contribution for each barrel. That equates to just under \$5,000 in city contribution that would come from the Stormwater Utility Fund. The cost to each resident for a rain barrel is only \$30.

Pursuant to published notice, a public hearing was held regarding the MS4 Permit – Storm Water Pollution Prevention Program. Mayor Prince opened the hearing at 6:30 p.m. hearing the following comment:

- Rita Albrecht, 1911 Norton Avenue, commented on salt and sand cleanup on downtown streets, the rain barrel program and suggested the city implement an "Adopt a Stormdrain" program which could be brought forward by the Sustainability Commission.

Hearing no further comments, Prince closed the Public Hearing at 6:34 p.m.

ORDINANCES

ORDINANCE NO. 197, 3RD SERIES, AN ORDINANCE Amending Chapter 10, Article II of the Bemidji City Code Relating to Rental Housing Registration Code was given a final reading and passed with the following roll call vote: Yeas: Prince, Rivera, Thayer, Johnson, Eaton, Fiskevold Gould, Peterson. Nays: None. **Motion by Peterson, seconded by Johnson approving publication of a summary of Ordinance No. 197, 3rd Series. Motion carried by unanimous voice vote.**

NEW BUSINESS

Consider Request for Reduction of Fees and Issuance of 1-4 Day Temporary Liquor Permits for 2023 Mississippi Music Summer Concert Series and Consider Resolution Approving the Site and Alcohol for the 2023 Mississippi Music Summer Concert Series

Miller stated that Board President for Mississippi Music, Kristi Miller, has submitted eight (8) 1-4 Day Temporary Liquor License Applications for the Mississippi Music Summer Concert Series to be held on Wednesday evenings in June, July and August at the Waterfront. The temporary licenses allow for the sale of strong beer at and during these waterfront concert series events.

The Board is again requesting that the City Council consider a reduction of a portion of the total cost of the eight (8) license fees. In 2019, 2021 and 2022 the Council reduced the fees by three-quarters (total of 8 x \$120/each = \$960). Previous comments from councilmembers for justifying a reduction of the cost includes the limited length of the event (two hours per event vs. 1-4 full day use). Therefore, if the Council follows the previous actions, a three-quarter reduction would result in a total fee payment of \$240 for the eight temporary on-sale liquor license permit fees.

Thayer expressed opposition to the waiver of fees related to alcohol.

Motion by Rivera, seconded by Eaton, to approve the eight (8) Temporary On-Sale Liquor Permits and waiver of three-quarters of the \$960.00 fees. Motion carried with the following roll call vote: Yeas: Johnson, Eaton, Rivera, Fiskevold Gould, Peterson, Prince. Nays: Thayer.

RESOLUTION NO. 6483: Approving the Site and Alcohol for the 2023 Mississippi Music Summer Concert Series was offered by Councilmember Rivera, who moved its adoption, and upon due second by Councilmember Eaton was passed by the following roll call vote: Yeas: Johnson, Eaton, Rivera, Fiskevold Gould, Peterson, Prince. Nays: Thayer.

Consider Change Order No. 1 for Water Treatment Plant Phase 2 Construction-City Project 21-05
Background:

Anderson stated that the change order includes three items that have come up during the last three months as city staff and Barr worked on finalizing shop drawing submittals and permits. Two of the items are straightforward:

- 1. Changing out some flanged coupler adapters on pipe: + \$2,283.59
- 2. Installation of stainless steel roof caps and vents: + \$2,919.99

The third item are costs related to additional dewatering and state (DNR, MDH, MPCA) permit requirements which are described below.

Dewatering

The construction of the water plant will require a dewatering discharge permit from the MN Department of Natural Resources. The water plant contractor is estimating a dewatering period of about six months. Like last fall’s sanitary sewer lift station project the DNR and the MPCA stated that the city would need to provide treatment of the dewatering water for PFAS compounds before it could be discharged onto the surrounding grass lands. In February city staff and Barr obtained a price from Clean Harbors, Inc. to provide a portable PFAS treatment plant that would meet the DNR permit requirements. The extra cost for the temporary plant and its operation came in at about \$1,000,000.

City staff and Barr Engineering have spent the last three months working on more reasonable solutions that we could propose to the state agencies. Anderson reported that after many hours and months of work it they have been able to get the agencies to approve a dewatering permit that will allow Staff to blend treated water with the contractor’s dewatering water and then discharge the blended combination to the grasslands on the airport property. The state agencies are also going to require the City to perform significant testing and sampling during the dewatering period, but much of this extra work will be able to be performed by existing city utility staff.

The additional cost for Rice Lake Construction to provide the extra 3,100 feet of dewatering piping, along with operation and maintenance of the system and necessary restoration afterwards is \$147,873.66. Some of these costs are estimated and the final numbers will be paid based on the exact length of time that the dewatering system will be in place.

Anderson stated that getting to this point has been challenging and time consuming and has also required about \$50,000 of extra professional services from Barr Engineering, but compared to the costs we were facing in January he is very pleased with the outcome. Including the extra design costs with the contractor costs it appears we should be able to solve the dewatering issue for about \$200,000 instead of the \$1,000,000 we were previously faced with.

The net amount of the change order is \$153,077.13. This change order results in a new contract cost with Rice Lake Construction of \$14,351,277.13

Motion by Thayer, seconded by Peterson, approving Change Order #1 in the amount of \$153,077.13 for the Water Treatment Plant – City Project 21-05. Motion carried by the following roll call vote: Yeas: Peterson, Thayer, Fiskevold Gould, Prince, Rivera, Eaton, Johnson.

Consider Professional Services Agreement for 1st Street Water Tower Rise Repair

Anderson stated that on February 28, the ice accumulation within the water tower tank (reservoir) formed a complete cap that did not allow for air relief within the tank. As the water exited the 6 foot diameter riser pipe, the vacuum created by the ice accumulation in the tank caused the riser pipe to collapse inward. When the ice within the tank eventually melted, the remaining water stored in the tank released down the collapsed riser pipe and pushed out sections of the riser pipe, but dents and holes in the pipe still remain and the water tower has been offline since.

Staff consulted with KLM Engineering, who specialize in water towers, to assist the city with determining options to repair the water tower. KLM provided an inspection report with four (4) methods (or options) for repair and that report is attached to this memo.

In conversations with the League of MN Cities Insurance Trust, they are considering Method 2, which is replacing the damaged riser pipe with a brand new one, as the baseline cost to get the water tower back to existing conditions at the estimated range of \$190,000-\$220,000. Staff are recommending to proceed with Method 3, which would convert the current “wet” riser pipe to a “dry” riser pipe. A “dry” riser pipe is where a smaller diameter insulated water main is installed within the 6 foot diameter riser pipe to provide added protection of future freezing issues. The estimated cost for Method 3 is expected to be less than Method 2, so it’s anticipated to be covered entirely by our insurance.

Method 3 does not include the full replacement of the riser pipe. The contractor would weld the holes closed and push out any dents, along with painting the riser pipe. There may be small imperfections that could be seen, but staff are still recommending to proceed with this option. Replacing the riser pipe entirely, along with converted the “wet” riser to “dry” riser, would create a shortfall of roughly \$100,000 that the city would need to pay for. This would be the difference between Method 1 and Method 2 to arrive at this shortfall amount.

Staff requested an engineering proposal from KLM Engineering to begin design of the water tower repair. The proposal amount is \$32,140 for engineering services all the way through construction. The League of MN Cities Insurance Trust will cover these engineering fees and has stated they would cover the estimated water tower repair costs of Method 2 (\$190,000-220,000) or the actual repair cost, whichever is less.

Staff are hopeful to get the design completed in the next 6-8 weeks and get a contractor awarded by the July or August timeframe and are hopeful to get the repair work completed by this Fall. If not, the work may need to be completed in Spring 2024. The 1st Street water tower is currently offline and will remain that way until repaired.

Motion by Peterson, seconded by Thayer, authorizing the City Engineer to enter into a professional services agreement with KLM Engineering for the 1st Street Water Tower Repair Project – City Project 23-06 and proceed with repair Method 3. Motion carried by the following roll call vote: Yeas: Thayer, Johnson, Eaton, Rivera, Fiskevold Gould, Peterson, Prince.

Consider Process for Search for City Manager

As the Council is aware, Pursuant to Bemidji City Charter Chapter 6 dictates the Administration of City affairs, and specifically the City manager. The City Manager is the sole employee the Council has direct supervision over in the City. The appointment of a City Manager shall be for an indefinite period of time, and shall be chosen by the Council “solely on the basis of his/her training, experience, executive and administrative qualifications.”

There are multiple avenues the Council can take to select a new City Manager. The two most common options are listed as follows:

1. **Recruitment Consultant:** The City has historically used a recruitment consultant to administer the search process for a new City Manager. The fees for these consultants can range from \$19,000 to \$26,000. The last recruitment consultant used by the City was Springsted (now

Baker Tilly) in 2015, at a cost of \$17,000. In 2007 the City used Brimeyer Group for approximately \$18,000, however they are now retired.

The two consultant companies Staff are aware of at this time would be Baker Tilly and DDA Human Resources Group. The Council could decide to do a Formal Request for Executive Search Consultant Services (RFP), but there is no requirement for an RFP process.

2. **Designation of an Individual or Individuals to Administer the Process:** The Council has the ability to designate an individual, or group of individuals, who would administer the hiring process for the new City Manager. This group should include members of the Council, and often includes some staff, but the League recommends at the very least the City Attorney be involved.

The Council could designate individuals who are not employees or members of the Council to participate with this committee on an ad hoc basis. There are some legal concerns in regards to this type of designation, specifically in regards to access to private data on individuals or otherwise protected data.

Upon discussion Council consensus was to retain a recruitment consultant.

Motion by Peterson, seconded by Fiskevold Gould, to seek proposals for a recruitment consultant to assist the City in hiring a city manager. Motion carried by the following roll call vote: Yeas: Rivera, Peterson, Johnson, Fiskevold Gould, Thayer, Prince, Eaton.

Discuss Council Board and Commission Reporting

Prince stated he would like to have council provide board and commission reporting at council meetings. He is open for discussion on the format of reporting. Council members express support of providing written reports and oral reports. Consensus was to reestablish council updates at council meetings with flexibility between written and oral reports. Once, the reporting process has been reestablished, it can be evaluated and modified as needed.

Consider Setting a Date to Discuss Adopting a Council Code of Conduct

Rivera stated that the Charter Commission set a six month deadline for the council to adopt a code conduct and suggested setting a time for the council to meet. Nolting stated that a June 12 work session has been scheduled to discuss. Prince suggested having the discussion facilitated.

Consider Appointment of Donald Heinonen to Merit Hearing Board

Fiskevold Gould expressed a question of community members serving on multiple city boards, are there many individuals on multiple boards and how vacancies are posted. Miller stated that a 30 day posting is put on the website. Fiskevold Gould suggested reaching out in other means of communication for board vacancies. Rivera suggested considering a different applicant who does not have a lot of ties to other boards to avoid potential conflicts.

Motion by Peterson, seconded by Fiskevold Gould, approving the appointment of Donald Heinonen to the Merit Hearing Board. Motion carried by the following roll call vote: Yeas: Fiskevold Gould, Eaton, Rivera, Peterson, Prince, Johnson, Thayer.

UPCOMING COUNCIL MEETINGS

- Monday, May 15 6:00 p.m. Council Meeting
- Monday, May 22 5:30 p.m. Work Session (2024 FMP)

ADJOURN

There being no further business, motion by Fiskevold Gould, seconded by Peterson, to adjourn the meeting. Motion carried. Meeting adjourned at 7:52 p.m.

Respectfully submitted,


Michelle R. Miller
City Clerk