

COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – August 7, 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, August 7, 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, Fiskevold Gould, Peterson, Johnson, Rivera, Eaton, Thayer.

Staff Present: City Attorney Katie Nolting, City Engineer Sam Anderson, Assistant City Engineer Jenna Roberts, Parks & Recreation Director Marcia Larson, Fire Chief Justin Sherwood, City Clerk/acting City Manager Michelle Miller

AMENDMENTS TO AGENDA

Mayor Prince called for any amendments to the agenda. Peterson requested that the Special Event Permit for the Fall Food Festival be moved to Consent Agenda #2.

Motion by Peterson, seconded by Thayer, requesting an agenda item to consider available city options to assist displaced Red Pine Estates Residents. Motion carried by the following roll call vote: Yeas: Johnson, Fiskevold Gould, Prince, Eaton, Peterson, Thayer. Nays: Rivera.

Motion by Rivera, seconded by Fiskevold Gould, requesting removal of item to consider contracting with outside legal counsel regarding hiring of City Manager. Motion failed by the following roll call vote: Yeas: Rivera, Fiskevold Gould. Nays: Thayer, Johnson, Eaton, Peterson, Prince.

Motion by Eaton, seconded by Johnson, approving the agenda as amended. Motion carried by the following unanimous roll call vote: Yeas: Rivera, Peterson, Johnson, Fiskevold Gould, Thayer, Prince, Eaton.

MINUTES

The following minutes were presented for approval:

BEDA Meeting:	May 1, 2023
Special Work Session:	May 1, 2023
Council Meeting:	May 1, 2023

Motion by Rivera, seconded by Eaton, 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. Prince requested that the June 2023 Financials from ASM for the Sanford Center and Appointment of Megan Lysford to the Library Board be removed for discussion. The following Consent Agenda items were presented for approval. **Motion by Thayer, seconded by Peterson, to approve Consent Agenda items as follows:**

1. Claims Submitted by Finance Officer in the Amount of \$4,832,312.97
2. Claims Submitted by ASM Global for the Sanford Center in the Amount of \$87,153.43
3. Approve Special Event Permit Downtown Vendor Market (August 19)
4. Approve Special Event Permit St. Philip's Summer Block Party (August 26)
5. Approve Special Event Permit Circus Stella (August 25-27)
6. Approve Purchase of 2024 GMC 2500HD Pickup from North Country GM in the Amount of \$46,320.84 (Parks)
7. Approve Award of Quote for 2023 Alley Paving to Northern Paving (\$40,050)
8. **RESOLUTION NO. 6494:** Approving the Site and Alcohol for the End of Summer Community Block Party for Church of St. Philip (August 26)
9. **RESOLUTION NO. 6495:** Accepting Donation from North Country Snowmobile Club (\$2,000)
10. **RESOLUTION NO. 6496:** Requesting Conveyance of Tax Forfeited Lands
11. **RESOLUTION NO. 6497:** Authorizing Calendar Parking on Mississippi Avenue
12. **RESOLUTION NO. 6498:** Restricting Parking on Norton Avenue and 23rd Street
13. **RESOLUTION NO. 6499:** Designating 2-Hour Parking and No Parking 1:00-6:00 a.m. on Minnesota Ave

Motion carried by unanimous voice vote.

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 Eaton, approving Consent Agenda #2 as follows:**

14. Approve Claims Submitted by Finance Officer for Visit Bemidji in the Amount of \$56,024.60
15. Approve Special Event Permit Fall Food Festival (September 13-17)

Motion carried by the following roll call vote: Yeas: Thayer, Fiskevold Gould, Prince, Rivera, Eaton, Johnson. Abstain: Peterson due to his role as Executive Director for Visit Bemidji and his role with the First City of Lights Foundation.

CONSENT AGENDA #3

Mayor Prince called for any items to be pulled from consent agenda #3. Prince requested that the Change Order No. 4 for the Bemidji Day Center be removed for further discussion.

CITIZENS WITH BUSINESS NOT ON AGENDA

The following individuals provided comments:

- CT Marhula, 4524 Birchmont Drive NW, #10, regarding the city's policy regarding public comment
- Janet Altman, 3900 Avion Lane NW, regarding data practices
- Jaime Thibodeaux, 2763 Sunnyside Rd NW, regarding council actions; crime in the city and housing stock
- Misty Bray, 516 Beltrami Avenue, Apt A, regarding establishing a policy for after action meetings; employment postings, dispatching services, and communication.
- Cynthia Tesar, 4509 Birchmont Dr NE, regarding requiring more low income housing in new developments

ORDINANCES

An Ordinance Amending Chapter 14, Article III of the Bemidji City Code Relating to Air Pollution, by Adding Section 14-73, Entitled Use of Cannabis in Public

Nolting stated that this ordinance would limit the use of adult recreational cannabis in public, with three exceptions. Council provided the following comments:

- Thayer expressed concern regarding the prohibition on city streets and sidewalks.
- Fiskevold Gould expressed concern on how restrictive the ordinance is and the need for the Parks and Recreation Commission to review.
- Prince expressed concern regarding not having a tool for law enforcement to enforce any concerns regarding public use of cannabis.

AN ORDINANCE Amending Chapter 14, Article III of the Bemidji City Code Relating to Air Pollution, by Adding Section 14-73, Entitled Use of Cannabis in Public was given a first reading.

Ordinance Amending Chapter 12, Article XXV, of the Bemidji City Code Relating to Lodging Tax
Councilmember Peterson stepped away from the Council Chamber Dais during the discussion.

Nolting described the following changes to the Lodging Tax ordinance:

- Removing the reference to the Minnesota Department of Revenue's Tax Fact Sheet 141 throughout the document and just referencing the Minnesota Department of Revenue's definition for Taxable lodging and lodging-related services;
- Section 12-1431 (7) fixing an error in the section number to read "section 12-1429";
- Section 12-1439 referenced Minn. Stat. §477A.018, which was repealed and renumbered to Minn. Stat. §469.190;
- Amending "planned Bemidji Advertising and Promotion Bureau" to "local tourism bureau" throughout the ordinance;

The major change to the ordinance is removing the expiration date. Pursuant to Minn. Stat. §469.190 subd. 1, the maximum tax the city can impose is 3%, which is what the current ordinance is collecting. There is no requirement under Minn. Stat. §469.190 for the Council to have to renew the Lodging Tax Ordinance for it to remain in effect. At this time, there is no legal reason the Council would need to have an expiration date in the ordinance or require further action if the proposed ordinance is passed.

Miller noted that the current draft of the ordinance does not correctly reflect the changes but that the first reading can be conducted and before the second reading of the ordinance, the council can move to adopt the changes.

AN ORDINANCE Chapter 12, Article XXV, of the Bemidji City Code Relating to Lodging Tax was given a first reading.

NEW BUSINESS

Consider Resolution Supporting the Joint Airport Zoning Board Draft Ordinance

Nolting provided a memorandum documenting that the Bemidji Airport Authority, which was created by a Joint Powers Agreement between the City and Beltrami County, was the governing body which

created the Bemidji Airport Planning and Zoning ordinance that is currently in place today. To create a custom airport zoning, the Joint Airport Zoning Board (JAZB) was revised to include all the Local Governmental Units (LGU's) that are impacted by airport zoning as required by Minnesota Statute. Last year, the revised JAZB was formed to include representatives for the LGU's to help formulate a more customized airport zoning ordinance. These governmental units include the City of Bemidji (represented by Councilmembers Eaton and Johnson), the City of Wilton, Bemidji Township, Northern Township, Eckles Township, Grant Valley Township, and Beltrami County.

The JAZB has spent the last year meeting and working to ensure the airport planning and zoning ordinance meets the unique needs of the all the surrounding communities, while taking into consideration protection of the public and aviation services and reducing the needs for variances for future development. The draft ordinance must be approved by the State of Minnesota Department of Transportation (MNDOT) before the JAZB can continue to move forward and eventually adopt the ordinance. JAZB will be seeking State approval next month and any resolutions of support from impacted LGU's will go with the draft ordinance to the State.

The resolution before the Council is presented to allow the Council to offer support to the draft ordinance. While the resolution is not required to submit the ordinance to the MNDOT, the City's support would be appreciated by the JAZB as they move through this process. Council and airport staff discussed representation on the board.

RESOLUTION NO. 6500: City of Bemidji Support of the Joint Airport Zoning Board Draft Ordinance was offered by Councilmember Eaton, who moved its adoption, and upon due second by Councilmember Peterson was passed by the following unanimous roll call vote: Yeas: Eaton, Prince, Peterson, Thayer, Johnson, Rivera, Fiskevold Gould.

Consider Resolution Adopting Bemidji City Council Code of Conduct

Nolting presented a draft code of conduct for council comment and feedback. Council provided the following comments:

- Rivera suggested more information regarding board and commissions, providing links for more information to keep the document shorter, more clear communication expectations within council, and suggested using more content from the City of Edina.
- Prince suggested scheduling another work session

Upon discussion consensus was to schedule a special work session on Tuesday, August 15 at 5:30 p.m. at City Hall regarding the code of conduct.

Consider Contracting with Outside Legal Counsel Regarding Hiring of City Manager

Prince stated that he and Councilmember Eaton brought this forward as representatives for the search and hiring of a city manager. Prince stated that based on discussion with Baker Tilly, it was suggested to bring this item to council in order to comply with the Charter and HR components to hiring of a city manager. Rivera expressed questions and concerns regarding this request and stated she cannot support it. Fiskevold Gould supports the intent but stated she cannot support it.

Motion by Eaton, seconded by Prince, to retain outside counsel to advise on matters related to the search and hiring of the City Manager position as needed in an amount not to exceed \$10,000. Motion carried by the following roll call vote: Yeas: Prince, Thayer, Johnson, Eaton, Peterson. Nays: Rivera, Fiskevold Gould.

Mayor Prince called for a recess at 8:15. Meeting reconvened at 8:20 with all members present.

Consider Available City Options to Assist Displaced Red Pine Estates Residents

Peterson brought forward this due to a grant recently awarded by the county and requested a city match and was wondering if this is allowed. Nolting stated the city does not have the legal authority to use taxpayer funds for hotel rooms, food, etc. for the residents of Red Pine. There are policy changes that could be done by council related to housing. Prince inquired of the ability of the City to establish an emergency fund to respond to a defined set of circumstances. Prince inquired about the use of funds and seeking reimbursement from grant dollars that could possibly be applied for from housing funds with the State of Minnesota.

Motion by Peterson, seconded by Eaton, to schedule a special work session on Tuesday, August 29, 2023, at 5:30 p.m. in City Hall regarding emergency housing situations and how the city can assist in those situations. Motion carried by the following unanimous roll call vote: Yeas: Fiskevold Gould, Eaton, Rivera, Peterson, Prince, Johnson, Thayer.

City Engineer Anderson stated that an open house has already been scheduled for the Council Chambers for Tuesday, August 15. Therefore, there is a conflict for City Hall for a special work session for the council to meet on the code of conduct.

Motion by Eaton, seconded by Peterson, to request an extension from the Charter Commission for the council to adopt a code of conduct. Motion carried by the following roll call vote: Yeas: Johnson, Fiskevold Gould, Prince, Eaton, Peterson, Thayer. Nays: Rivera.

Approve June 2023 Financials from ASM for the Sanford Center

Prince stated that staff are currently making changes to the previously submitted June 2023 Financial Statements and are seeking a continuance for approval.

Approve Appointment of Megan Lysford to the Library Board

Prince stated there was some confusion regarding the residency requirements of the vacancy. The library board chair stated that the vacancy is specifically for outside city limits. Prince stated that his recommendation would be to appoint Kenneth Hansen.

Motion by Eaton, seconded by Thayer to appoint Kenneth Hansen to the Library Board. Upon discussion, Thayer withdrew her second to the motion. Motion died for lack of a second.

Miller stated that her interpretation of the residency requirement was that the city may appoint residents of the county to the city library board.

Motion by Thayer, seconded by Fiskevold Gould, to table the appointment until the August 21 council meeting to obtain information from the Library Board. Motion carried by the following roll call vote: Yeas: Thayer, Johnson, Eaton, Rivera, Fiskevold Gould, Peterson, Prince.

Approve Change Order No. 4 in the Amount of \$5,611 for the Bemidji Day Center

Prince stated he was concerned about the risk to the city if the cost overrun is not paid by the Nameless Coalition. Prince stated he would like written assurance from the board that they will pay for any cost overruns related to the project.

Motion by Fiskevold Gould, seconded by Eaton, to approve Change Order No. 4 in the Amount of \$5,711 for the Bemidji Day Center. Motion carried by the following roll call vote: Yeas; Peterson, Johnson, Fiskevold Gould, Thayer, Prince, Eaton. Abstain: Rivera due to her roll on the Nameless Coalition Board.

COUNCIL REPORTS

Councilmembers provided reports on various boards, committees and commissions.

UPCOMING COUNCIL MEETINGS

- Monday, August 14 5:30 p.m. Work Session (2024 Financial Management Plan)
- Monday, August 21 6:00 p.m. Council Meeting
- Monday, August 28 5:30 p.m. Special Council Meeting

ADJOURN

There being no further business, motion by Peterson, seconded by Eaton, to adjourn the meeting. Motion carried. Meeting adjourned at 9:33 p.m.

Respectfully submitted,



Michelle R. Miller
City Clerk