

COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – August 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 Monday, August 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, Fiskevold Gould, Peterson (WebEx), Johnson, Rivera, Eaton, Thayer.

Staff Present: City Attorney Katie Nolting, City Engineer Sam Anderson, Parks & Recreation Director Marcia Larson, Police Chief Mike Mastin, City Clerk/acting City Manager Michelle Miller

SWEARING IN CEREMONY

Miller conducted the oath of office to Police Officers Hanks, Yeager, Schneck and Warren.

AMENDMENTS TO AGENDA

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

MINUTES

The following minutes were presented for approval:

Sp Council Meeting: May 8, 2023
Council Meeting: May 15, 2023
Work Session: May 22, 2023

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

CONSENT AGENDA

Mayor Prince called for any amendments to be made to Consent Agenda. Fiskevold Gould requested that the Special Event Permit for the BSU Football Tailgate Event and the Resolution Approving the Site and Alcohol for the 2023 BSU Home Football Games be removed due to her employment with the BSU Alumni Association. The following Consent Agenda items were presented for approval.

Motion by Thayer, seconded by Eaton, to approve Consent Agenda items as follows:

1. Claims Submitted by Finance Officer in the Amount of \$519,230.10
2. Claims Submitted by ASM Global for the Sanford Center in the Amount of \$60,571.90
3. Approve June 2023 Financials from ASM for the Sanford Center
4. 2023 General Business License Approvals
5. Approve Special Event Permit - Sanford Health Bemidji Games Recruitment Event
6. Approve Purchase of 2024 GMC 1500 Pickup from North Country GM-Hibbing in the Amount of \$42,637.25 (Engineering)
7. Approve Purchase of 2024 GMC ¾ Ton Pickup from North Country GM-Hibbing in the Amount of \$49,010.91 (Water/Sewer)
8. Approve Quote for Shade Structures for Nymore Dog Park
9. Approve Appointment of Megan Lysford to the Library Board
10. Authorize Council Travel – Mediation Training for Cities and Counties (St. Paul) October 3-6, 2023 - Rivera

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

CITIZENS WITH BUSINESS NOT ON AGENDA

- Christopher Murray, 2710 Bemidji Avenue N, provided comments regarding parking lane signage on Bemidji Avenue

ORDINANCES

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

Pursuant to published notice, a Public Hearing was held to receive input regarding 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. Mayor Prince opened the Public Hearing at 6:18 p.m., with the following comments:

- Christopher Murray, 2710 Bemidji Avenue N, provided comments regarding the public use of cannabis, it undermines the purpose of the state legislative and is too restrictive

Hearing no further comments, Prince closed the public hearing at 6:22 p.m.

Council provided the following comments:

- Rivera does not support the ordinance as being too restrictive
- Eaton does not support the ordinance as being too restrictive
- Peterson supports the ordinance as it is written
- Thayer does not support the ordinance as being too restrictive
- Fiskevold Gould does not support the ordinance
- Prince expressed a concern regarding the issue of complaints regarding odor (through comments by Chief Mastin) and Parks and Recreation Director Marcial Larson stated that the Parks and Recreation Commission provided a recommendation to adopt the ordinance as an enforcement tool. Prince supports an ordinance if only restricted to odor.

Motion by Fiskevold Gould, seconded by Rivera to not move forward with 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. Motion carried by the following roll call vote: Yeas: Rivera, Fiskevold Gould, Thayer, Eaton. Nays: Peterson, Johnson, Prince.

Ordinance Amending Chapter 12, Article XXV, of the Bemidji City Code Relating to Lodging Tax
Motion by Eaton, seconded by Thayer, Accepting Changes to an Ordinance Amending Chapter 12, Article XXV, of the Bemidji City Code Relating to Lodging Tax. Motion carried with the following roll call vote: Yeas: Prince, Rivera, Thayer, Johnson, Eaton, Fiskevold Gould. Peterson removed himself from the conversation from the virtual WebEx “Dais” due to a conflict as his role as the Executive Director of Visit Bemidji.

Pursuant to published notice, a Public Hearing was held to receive input regarding Ordinance Amending Chapter 12, Article XXV, of the Bemidji City Code Relating to Lodging Tax. Mayor Prince opened the Public Hearing at 6:40 p.m. Hearing no comments, Prince closed the public hearing at 6:41 p.m.

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

Councilmember Peterson reentered the council discussion.

NEW BUSINESS

Consider Firms for Outside Legal Counsel Regarding Search and Hiring of City Manager

Nolting stated that from the August 7, 2023 Council meeting, the Council voted to retain outside legal counsel to advise the Council on the search and hiring of a new city manager. There was some discussion as to which legal counsel to hire, however no decision was made.

After the Council meeting, Nolting was tasked with contacting law firms which would meet the criteria of having HR expertise and experience with City Charters. After speaking with the League of Minnesota Cities General Counsel, and also researching law firms that have worked with the City previously, below is a list of attorneys that Nolting spoke with on behalf of the Council to ascertain their ability to take the City on as a client and the cost to do so:

- **Flaherty and Hood – Brandon Fitzsimmons**
 - As the Council is aware, Mr. Fitzsimmons is familiar with Bemidji, this Council, and the Bemidji City Charter. He is well versed in employment law, as the City has used him on multiple occasions for complex and/or conflict employment cases. Mr. Fitzsimmons stated the CGMC rate for the City would be \$155 per hour for the first 25 hours, and then \$75 per hour after that. The fiscal year for Flaherty and Hood does start September 1st, meaning the \$125 per hour rate would begin again on September 1st. Mr. Fitzsimmons is willing to assist the Council on this matter.
- **Quinlivan and Hughes - Dyan Ebert**
 - Ms. Ebert is located in St. Cloud and specializes in employment law. Ms. Ebert stated she may be interested in representing the City, but would need more information from the Council as to what specifically the Council would be looking for from outside counsel, other than writing the contract when a city manager is located and a job offer is extended. Ms. Ebert indicated she would give the discounted LMC’s rate of \$255 per hour to the City.
- **Kennedy and Graven - Mary Tietjen**
 - Nolting spoke with Ms. Tietjen, who indicated at this time she could not take the Council on as a client at this time due to her case load.

- **Ratwik, Raszak and Maloney – Ann Goering and Joe Langel**
 - Ms. Goering and her partner, Joe Langel are located in St. Paul. Ms. Goering has 33 years of experience as an employment attorney while Mr. Langel has 25 years’ experience as a city attorney and is currently representing Brainerd, Pequot Lakes, and multiple other cities. Ms. Goering and Mr. Langel would charge \$210 per hour but would not double charge (meaning if both attorneys appeared for a meeting, it would just cost \$210 per hour).

- **Swenson and Lervick - Tom Jacobson**
 - Mr. Jacobson is located in Alexandria and is currently the City Attorney of Alexandria, Parker’s Prairie, Starbuck, and Henning. Alexandria is also a Charter City, so Mr. Jacobson is familiar with charters, and also handles the HR issues for the cities he represents. Mr. Jacobson is willing to represent the Council in this matter and would charge the Council the amount he charges the other cities he represents, which is \$195 per hour.

- **Pemberton Law Firm – Kristi Hasting**
 - Ms. Hasting is located in Fergus Falls. Her areas of practice include municipal law, public school law, and employment law. Ms. Hasting is willing to take the Council as a client, however with her practice including public school law, she is not as available during the months of August and September as she would be other months. Ms. Hasting did represent the Bemidji HRA in 2018 in an employment case. Her rate is \$250 per hour.

Prince stated he spoke with Patty Heminover from Baker Tilly and had no concerns with any of the proposed firms but did express a high level of experience with Flaherty & Hood and Ratwik, Raszak and Maloney.

Council provided the following:

- Rivera stated she would like a clearly identified scope of work but did indicate she would go prefer Flaherty & Hood
- Eaton stated he would prefer Flaherty & Hood and Ratwik, Raszak and Maloney
- Fiskevold Gould also expressed concern regarding the lack of scope of work identified but did indicate she would prefer Flaherty & Hood.
- Johnson stated he would prefer Flaherty & Hood, Ratwik, Raszak and Maloney or Swenson and Lervick
- Thayer desires a different viewpoint and would prefer Ratwik, Raszak and Maloney or Swenson and Lervick
- Prince inquired if any of the firms provided their billing increments practice. Prince is comfortable going with Ratwik, Raszak and Maloney or Flaherty & Hood.

Motion by Rivera, seconded by Eaton, to retain Flaherty & Hood as outside counsel to advise on matters related to the search and hiring of the City Manager. Motion carried by the following roll call vote: Yeas: Johnson, Eaton, Rivera, Fiskevold Gould. Nays: Thayer, Peterson, Prince.

Consider Special Event Permit - BSU Football Pre-Game Tailgate Events

Motion by Thayer, seconded by Peterson approving the special event permit for the BSU Football Pre-Game Tailgate Events. Motion carried with the following roll call vote: Yeas: Eaton, Prince, Peterson, Thayer, Johnson, Rivera. Abstain: Fiskevold Gould.

Consider Resolution Approving the Site and Alcohol for 2023 BSU Home Football Games

RESOLUTION NO. 6501: Approving the Site and Alcohol for 2023 BSU Home Football Games 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, Prince, Eaton, Peterson, Thayer, Rivera. Abstain: Fiskevold Gould.

COUNCIL REPORTS

Councilmembers provided reports on various boards, committees and commissions.

UPCOMING COUNCIL MEETINGS

- Monday, August 28 5:30 p.m. Special Council Meeting (Cannabis Public Input/Cannabis Public Space Ordinance – Third Reading)
- Tuesday, August 29 5:30 p.m. Special Work Session (Housing)
- Monday, September 4 HOLIDAY
- Tuesday, September 5 6:00 p.m. Council Meeting
- Wednesday, September 6 5:30 p.m. Special Work Session (2024 Financial Management Plan)

ADJOURN

There being no further business, motion by Peterson, seconded by Eaton, to adjourn the meeting. Motion carried. Meeting adjourned at 7:19 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Michelle R. Miller". The signature is written in a cursive style with a large initial "M".

Michelle R. Miller
City Clerk