

COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Regular Meeting – October 16, 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, October 16, 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 (via Webex), Eaton, Thayer.

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

AMENDMENTS TO AGENDA

Mayor Prince called for any amendments to the agenda. Motion by Thayer, seconded by Eaton to add Code of Conduct Discussion to the Agenda. Motion carried by unanimous voice vote. **Motion by Peterson, seconded by Eaton, approving the agenda as amended. Motion carried by unanimous voice vote.**

MINUTES

The following minutes were presented for approval:

Council Meeting: July 17, 2023
Council Meeting: August 7, 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. The following Consent Agenda items were presented for approval. **Motion by Fiskevold Gould, seconded by Johnson, to approve Consent Agenda items as follows:**

1. Claims Submitted by Finance Officer in the Amount of \$1,623,492.50
2. Claims Submitted by ASM Global for the Sanford Center in the Amount of \$197,538.98
3. Approve Memorandum of Understanding with Sanford Health for Sanford Behavioral Health Sidewalk
4. **RESOLUTION NO. 6515:** Authorizing Cooperative Agreement Between State of Minnesota and City of Bemidji
5. **RESOLUTION NO. 6516:** Rescinding Petition to Annex Certain Property Contiguous to Gregg Court NW to the Corporate Limits of the City of Bemidji (Pfremmer) and Accepting Petition to Annex Certain Property Contiguous to Gregg Court NW to the Corporate Limits of the City of Bemidji (Nelson)

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

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 Thayer, seconded by Johnson, approving Consent Agenda #2 as follows:**

6. Claims Submitted by Finance Officer for Visit Bemidji in the Amount of \$11,330.00

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

CITIZENS WITH BUSINESS NOT ON AGENDA

- CT Marhula, 4524 Birchmont Dr NE #10, provided comments regarding public data requests; citizen comments on agenda items and asked for city support regarding the sales tax for the jail.
- Patricia Lester, 1815 Minnesota Court NW, provided comments regarding rental properties.

PUBLIC HEARING

Conduct Public Hearing on Proposed Assessments for the 2023 Norton Avenue Reconstruction Project - City Project 23-02

Anderson reported that the city recently completed the 2023 Norton Avenue Reconstruction Project, consisting of the reconstruction and paving of the following street segments:

Ridgeway Avenue NW
23rd Street NW
Norton Avenue NW

Paul Bunyan Drive (TH 197) – 23rd Street NW
Ridgeway Avenue NW – 22nd Street NW
22nd Street NW – 15th Street NW

Assessments to the benefitting properties are proposed for the work that was completed and therefore the project was undertaken as a Chapter 429 Special Assessment project. A public hearing was held on January 17, 2023 and bids were awarded by the city council on June 5, 2023. The city council now needs to hold an assessment hearing and consider the adoption of the final assessment roll which is attached. The city clerk has mailed a notice of the hearing to each property owner on the assessment roll.

The proposed assessments for the 2023 project are the same as with the previous years and according to the city’s assessment policy are as follows:

Street Assessments	\$45/lineal foot
Sanitary Sewer Service Line	\$1,070/ea.
Water Service Line	\$1,070/ea.

Staff has proposed to reduce the assessable street frontage by half for those properties on 23rd Street from Ridgeway Avenue NW to 22nd Street NW. This street section was recently reconstructed and doesn’t demonstrate the same benefit as those residents on the sections with older pavement. This reduced our proposed street assessment amount by about \$16,000. This adjustment was also noted at the time of awarding the low bid in June.

Each property owner that is proposed to be assessed has the ability to appeal their assessment amount to the city council at the assessment hearing. In order to appeal, the property must either submit a written notice of appeal prior to the assessment hearing or they may attend the hearing this evening. If a property owner appeals at the hearing and is not satisfied with the outcome they can then appeal to district court. A property owner cannot appeal to district court without first filing an appeal at the city’s assessment hearing.

The total project cost will end up being approximately \$1,738,887 and the assessments for the project total \$232,949.25 which is about 13% of the total project costs.

The city’s share of the project is funded with federal aid, state aid and appropriate shares from the water and sanitary sewer utility funds. The assessments will be spread over a 15-year period with an interest rate of 4.5%.

Pursuant to published notice a public hearing was held regarding input on Proposed Assessments for the 2023 Norton Avenue Reconstruction Project – City Project 23-02. Mayor Prince opened the Public Hearing at 6:19 p.m. with the following comments:

- Rita Albrecht, 1911 Norton Avenue NW, inquired about property owners paying a portion of an assessment with the remaining about being assessed at 4.5%

Hearing no further comments, Prince closed the Public Hearing at 6:23 p.m.

Resolution Adopting Assessment Roll for 2023 Norton Avenue Reconstruction Project (23-02)

RESOLUTION NO. 6517: Adopting Assessment Roll for Assessments for the 2023 Norton Avenue Reconstruction Project - City Project 23-02 was offered by Councilmember Eaton, who moved its adoption, and upon due second by Councilmember Rivera was passed by the following roll call vote: Yeas: Rivera, Peterson, Johnson, Fiskevold Gould, Thayer, Prince, Eaton.

ORDINANCES

First Reading of an Ordinance Amending Fee Schedule (2024)

AN ORDINANCE Amending Fee Schedule for 2024 was given a first reading.

Public Hearing of Ordinance Amending Bemidji City Code to Replace Chapter 22 and Chapter 28 with a Development Code for the City

Nolting noted changes to the ordinance from the first reading as follows:

- Definition of nighttime was changed to say from “sunset to sunrise”;
- Option to add correctional or rehabilitation center land use language in definitions and in the land use regulation matrix;

Pursuant to published notice a public hearing was held regarding input on an Ordinance Amending Bemidji City Code to Replace Chapter 22 and Chapter 28 with a Development Code for the City. Mayor Prince opened the Public Hearing at 6:48 p.m. with the following comments:

- Rita Albrecht, 1911 Norton Avenue NW, provided comments regarding having a strong planning department, an updated comprehensive plan for the City, planning commission

application filing period open to all, council board of review training, and attorney representation for city planning commission or board.

Hearing no further comments, Prince closed the Public Hearing at 6:55 p.m.

Council provided the following comments:

- Fiskevold Gould does not support adding language related to correctional or rehabilitation centers.
- Peterson supports adding language related to correctional or rehabilitation centers.
- Thayer supports adding language related to correctional or rehabilitation centers.
- Johnson does not support adding language related to correctional or rehabilitation centers.
- Rivera supports either way.
- Eaton supports adding language related to correctional or rehabilitation centers.
- Prince does not support adding language related to correctional or rehabilitation centers.

Motion by Fiskevold Gould, seconded by Eaton accepting the revised Ordinance without the amendment related to correctional or rehabilitation centers. Motion carried with the following roll call vote: Yeas: Peterson, Thayer, Fiskevold Gould, Prince, Rivera, Eaton, Johnson.

AN ORDINANCE Amending Bemidji City Code to Replace Chapter 22 and Chapter 28 with a Development Code for the City was given a second reading.

Public Hearing of an Ordinance Amending Chapter 2, Article V of the Bemidji City Code to Reestablish the City of Bemidji Planning Commission

Noting noted changes to the ordinance from the first reading as follows:

- Removed in Section 2-391: “A council member appointed by the mayor and approved by the council and the zoning director shall be nonvoting members”.
- Added in Section 2-393: “When selecting members for appointment, preference will be given to candidates residing in wards that are not currently represented on the commission”.
- Changed in Section 2-395: amount changed from \$50.00 to \$75.00.

Pursuant to published notice a public hearing was held regarding input on an Ordinance Amending Chapter 2, Article V of the Bemidji Code to Reestablish the City of Bemidji Planning Commission. Mayor Prince opened the Public Hearing at 7:10 p.m. with the following comments:

- Michael Meehlhause, 415 Lakeshore Drive NW, provided comments supporting compensation to commission members.

Hearing no further comments, Prince closed the Public Hearing at 7:13 p.m.

Motion by Rivera, seconded by Eaton accepting the revised Ordinance changes described above. Motion carried with the following roll call vote: Yeas: Eaton, Prince, Peterson, Thayer, Johnson, Rivera, Fiskevold Gould.

AN ORDINANCE Amending Chapter 2, Article V of the Bemidji City Code to Reestablish the City of Bemidji Planning Commission was given a second reading.

Public Hearing of an Ordinance of Bemidji City Code Amending the 2023 Fee Schedule to Include Zoning Fees

Pursuant to published notice a public hearing was held regarding input on an Ordinance of Bemidji City Code Amending the 2023 Fee Schedule to Include Zoning Fees. Mayor Prince opened the Public Hearing at 7:18 p.m.; hearing no comments closed the Public Hearing at 7:18 p.m.

AN ORDINANCE Amending the 2023 Fee Schedule to Include Zoning Fees was given a second reading.

REPORTS

John Eggers with the 100% Graduation Initiative provided an update to council.

Mayor Prince called for a recess at 7:31. Meeting reconvened at 7:37 with all members present.

NEW BUSINESS

Consider Employment Agreement Between the City of Bemidji and Richard Spiczka for the Position of City Manager

It was noted that Christina Petsoulis with Flaherty and Hood sent the proposed employment agreement with Richard Spiczka to council and the agreement would not become public until the agreement is approved by council.

Council provided the following comments:

- Peterson is in favor of the proposed agreement.
- Thayer will move forward with the proposed agreement.
- Johnson is in favor of the proposed agreement.
- Rivera addressed budget concerns regarding training, PTO accrual, and salary.
- Eaton is in favor of the proposed agreement.
- Fiskevold Gould echoed similar concerns and questions as Rivera.
- Prince supports the proposed agreement.

Petsoulis stated that an evaluation process will be established outside of the terms of an agreement.

Motion by Peterson, seconded by Eaton approving the Employment Agreement between the City of Bemidji and Richard Spiczka as City Manager. Motion carried with the following roll call vote: Yeas: Prince, Thayer, Johnson, Eaton, Fiskevold Gould, Peterson. Nays: Rivera.

Clarifying Duties and Responsibilities of City Clerk While Designated to Perform City Manager Duties and Responsibilities

Prince stated that he and Councilor Eaton thought it best to bring to the whole council whether to consider restricting the duties assigned to the City Clerk as they relate to hiring or terminating department heads until such time that the new city manager, begins their duties. Prince stated that in previous communication with the Clerk, she indicated that she was already agreeable to not filling the Finance Director role until the new city manager is on board. However, he and Eaton felt this is a larger Council conversation, so that all council members can have some input up front in the event something were to happen in the interim.

Petsoulis provided the following to support the motion.

- A. The duties and responsibilities of City Manager City under City Charter and Job Description for City Manager include appointing all City employees[, including department heads].
- B. City Charter, section 6.04 states: “the city clerk shall be subject to the direction of the manager and shall have such duties as the council may prescribe.” Accordingly, the City Council is “prescrib[ing]” the duties of the city clerk while she is designated to perform the specified duties.
- C. The City Council is clarifying duties it is prescribing to the City Clerk during this time – it is not modifying the duties and responsibilities of the position of City Manager or any individual employed as City Manager.
- D. Even though the City Clerk cannot “appoint” individuals under this motion, she can still take all other necessary actions to ensure all functions otherwise performed by the respective department head are being performed

Council provided the following comments:

- Johnson supports a motion as advised by Flaherty and Hood.
- Rivera does not support a motion as advised by Flaherty and Hood.
- Fiskevold Gould expressed concerns.
- Peterson supports a motion as advised by Flaherty and Hood.
- Thayer supports a motion as advised by Flaherty and Hood.
- Prince supports a motion as advised by Flaherty and Hood.

Motion by Eaton, seconded by Peterson to prohibit City Clerk Michelle Miller from: (1) appointing or taking any further actions to appoint any City heads of departments; and (2) terminating from employment any City heads of departments, while she is designated to perform the duties and responsibilities of the City Manager as specified in the City Council’s duly approved motion at its April 3, 2023 regular meeting. Motion carried with the following roll call vote: Yeas: Eaton, Peterson, Prince, Johnson, Thayer. Nays: Fiskevold Gould, Rivera.

Consider Revised Memorandum of Understanding Between City of Bemidji and Visit Bemidji Regarding Tourist Information Center

Peterson removed himself from the conversation and stepped down from the dais due to a conflict as his role as the Executive Director of Visit Bemidji.

Larson reported that the Tourist Information Center (TIC) as traditionally served as the welcome and visitors center for the Bemidji Area since it was constructed in 1994. The TIC was built utilizing grant funds from the State of Minnesota. A grant agreement between the State of Minnesota and the City

established the building as a Tourist Information Center with requirement to operate as a tourist center as well as establishing the hours and general operations.

The Parks and Recreation Department and Visit Bemidji have collaborated on the staffing and operations of the Tourist Information Center since the summer of 2021. The Parks and Recreation Department and Visit Bemidji entered into a MOU for the operation of the Tourist Information Center during the summer of 2021. The MOU was revised to continue through end of 2023. The partnership has been successful as the tourist center has served as a visitor center and main operation for the Parks and Recreation Department. The TIC is jointly staffed, VB greatly assists in the marketing/promotion and sales. Through rentals, programs, advertising, and merchandising revenue goals were met in 2022 and are on target for 2023. In addition, through the sales of Babes (and Paul) plushies a fund for the maintenance and repair of Paul and Babe was established in 2022 at the Northwest Minnesota Foundation. This year to date \$5,660 for the fund - with a total of \$16,800 in the NWF Paul and Babe Fund.

The MOU and contents thereof were approved by the Visit Bemidji Board at the last meeting. The Parks and Recreation Commission reviewed the MOU at their regular meeting on October 10, 2023 and made a motion recommending the City Council approve the revised Memorandum of Understanding.

Rivera suggested a review of the VisitBemidji contribution related to increased staffing costs.

Motion by Thayer, seconded by Johnson approving the 2nd Revised Memorandum of Understanding Between the City of Bemidji and Visit Bemidji Regarding the Collaborative Provision of Staffing for the Tourist Information Center. Motion carried with the following roll call vote: Yeas: Johnson, Fiskevold Gould, Prince, Eaton, Thayer, Rivera.

Peterson reentered the council discussion and took his seat at the dais.

Consider Purchase of Dock for Paul Bunyan Park

The Parks and Recreation Department and the Department of Natural Resources has worked cooperatively to provide fishing opportunities for the Bemidji community through the provision of the Fishing Pier in Paul Bunyan Park as well as upgrades to public access in South Shore/Nymore and Cameron Park.

The Parks and Recreation Commission and staff have discussed the use and opportunities in Diamond Point for 2024. One amenity that has been requested over the years has been additional opportunities for fishing – such as a fishing pier. Through discussion with the DNR, an opportunity to jointly provide a fishing pier along the shore between the boathouse and the point was identified. The existing parking areas, walkways and sidewalks provide the necessary ADA routes to the proposed fishing pier. Through the Cooperative Agreement with the State, the DNR will provide the Fishing Pier and assist with the delivery and install. The Parks and Recreation Department through use of Capital Improvement Funding will provide a \$10,000 match.

City and DNR staff have reviewed the agreement and met on site to ensure the design and agreement meet the needs of both governments and the community. The Parks and Recreation Commission has reviewed the resolution and agreement and recommend approval of the resolution to the City Council.

The City Attorney has reviewed the Agreement, which is similar to the agreement/terms as the Paul Bunyan Fishing Pier Cooperative Agreement from 2021.

Council provided the following comments:

- Rivera expressed concern with approving this purchase due to the levy issues; however, due to the safety concerns with the existing dock would support using ARP funding for this expense.
- Eaton, Peterson, Thayer, Johnson and Prince support the purchase
- Fiskevold Gould express concern that council has not met to discuss spending ARP dollars; however, she does support this purchase with ARP funds.

Motion by Fiskevold Gould, seconded by Peterson to approve the purchase of a dock from MINNCOR Industries in the amount of \$44,700 utilizing \$25,000 of Parks Department capital improvement funds and up to \$22,000 from American Rescue Program Funds. Motion carried with the following roll call vote: Yeas: Thayer, Johnson, Eaton, Rivera, Fiskevold Gould, Peterson, Prince.

Consider Change Order No. 3 – Phase 2 Water Treatment Plant – City Project 21-05

Anderson reported on Change Order #3 for the construction of Phase 2 of the city's new water treatment plant; stating this change order is to account for the costs that the contractor, Rice Lake

Construction, incurred during a 35-day project shut down that had to occur while we obtained additional permits through the Federal Aviation Association (FAA) and some additional costs associated with modifying the project schedule to ensure we get the roof on and sealed prior to colder temperatures to continue construction during the winter months.

Earlier this spring the city was notified by the MPCA and DNR that any groundwater dewatering for the construction of the new water plant would require treatment for PFAS compounds before the dewatering water could be discharged onto the ground. Dewatering was one of the first construction activities that Rice Lake had to undertake before they could start pouring the concrete foundations and footings for the plant.

To meet the treatment requirements of the DNR permit, Barr Engineering looked at renting a portable PFAS treatment plant that could be brought on site to treat the dewatering water, similar to what was completed for the Gillett Drive Lift Station project. The estimated cost for the rental and operation of this portable treatment plant was going to be in excess of \$1,000,000.

Staff came up with another option to ask the MPCA, MDH, and the DNR if the city could use the existing treated water and blend it with the dewatering water so that the blended discharge water was below the PFAS guidelines. This would be a much cheaper option than portable treatment, but it would require additional testing along with additional permits from the FAA to run our dewatering discharge pipe across the airport to our municipal wells. We were successful in obtaining FAA permits, but it delayed the start of the project by 35 days; with a portion of this change order to account for the extra costs that were incurred by the contractors during this 35-day delay.

The net amount of the attached change order is \$161,385.41. This change order will result in a new contract cost with Rice Lake Construction of \$14,579,368.41. It should be noted that the original request from Rice Lake Construction for the delay was \$200,450. Staff were able to negotiate this down to the \$161,385.41.

Motion by Peterson, seconded by Thayer, approving Change Order #3, in the amount of \$161,385.41, for the Water Treatment Plant – City Project 21-05. Motion carried with the following roll call vote: Rivera, Peterson, Johnson, Fiskevold Gould, Thayer, Prince, Eaton.

Bemidji Police K9 Program Presentation

Chief Mastin provided background information regarding the K9 program. In the late 1990's the Bemidji Police Department retired its only K9 after a long career. That retirement ceased the canine program. Since that time, the Bemidji Police Department has relied on assistance from the Beltrami County Sheriff's Office and the Hubbard County Sheriff's Office when the need for a K9 arose. Our community has seen a significant increase in illegal drugs which has led to nearly 300 fentanyl related overdoses in the last several years. These increases have placed an increased burden on our law enforcement partners and solidified that the Bemidji Police Department needs to maintain its own canine.

Recognizing the need for drug interdiction and the many other uses of a canine partner, Officer Rachel Kniss has spent the last year researching programs and drafting a policy for a canine program. After developing a budget, staff applied for the Rural Violent Crime Initiative Grant in April 2023. We were not successful in that attempt but, were successful in an Edward Byrne Grant in the amount of \$10,500.00 through the Department of Justice. (Currently completing the acceptance process). Officer Kniss has also been in communication with Performance Kennels Inc. which has a K9 partner ready to be matched with an officer in the Spring of 2024.

The Bemidji Police Department mentioned the need for a canine during 2024 Budget discussion. Although the initiative did not make it to the final budget discussions in September, our department is still seeking ways to fund this initiative. The total startup cost for the K9 program is approximately \$130,000.00. The annual cost thereafter will be approximately \$10,000. The department now seeks to acquire funding through grants, gifts and public donations.

Officer Kniss presented the uses of a K9 in our community, a projected budget, additional funding options and a timeline of fundraising and training with a projected date of June 2024 for Officer Kniss and the K9 officer to begin working in the community.

Motion by Fiskevold Gould, seconded by Peterson, authorizing the Bemidji City Finance Department to create a special revenue account to accept grants, gifts and public donations which will be used to fund the Bemidji Police Department Canine (K9) program. Motion carried by the following roll call vote: Yeas: Peterson, Thayer, Fiskevold Gould, Prince, Rivera, Eaton, Johnson.

Code of Conduct

With the November 1, 2023 deadline from the Charter Commission and two councilmember scheduling conflicts, staff is seeking direction on a preferred date to meet and work on redrafting a code of conduct. Thayer expressed concern of not having all councilmembers present for this meeting. Eaton stated he has confidence in the council to meet during his absence.

Motion by Fiskevold Gould, seconded by Rivera, setting a date of October 30, 2023 at 5:30 p.m. to meet with Aimee Gourlay to redraft the Code of Conduct. Motion carried by the following roll call vote: Yeas: Eaton, Prince, Peterson, Johnson, Rivera, Fiskevold Gould. Nays: Thayer.

City Manager Review Process

Consensus of council was to pursue drafting of a City Manager Review Process with Flaherty & Hood.


UPCOMING COUNCIL MEETINGS

- Monday, October 23 5:30 p.m. Work Session (Code of Conduct)
- Monday, October 30 5:30 p.m. Work Session (TBD-If Necessary)
- Monday, November 6 6:00 p.m. Council Meeting
- Tuesday, November 7 ALL DAY Special Election

ADJOURN

There being no further business, motion by Peterson, seconded by Fiskevold Gould, to adjourn the meeting. Motion carried by unanimous voice vote. Meeting adjourned at 9:13 p.m.

Respectfully submitted,


Michelle R. Miller
City Clerk