

BEMIDJI CITY COUNCIL

Special Work Session Agenda

Monday, November 28 2016

**City Hall
Conference Room
5:30 P.M.**



1. CALL TO ORDER / ROLL CALL

2. GENE DILLION SCHOOL MUNICIPAL UTILITIES AGREEMENT,
ANNEXATION AND JPB ZONING DISCUSSION

3. ADJOURNMENT

Please Note: All cellular telephones, pagers and BlackBerry devices to be switched to a non-audible function during Council and Committee meetings.



City Manager's Office

MEMORANDUM

TO: Honorable Mayor Albrecht and City Council
FROM: Nathan Mathews, City Manager
DATE: November 23, 2016
RE: Gene Dillon School Municipal Utilities Agreement, Annexation, and JPB zoning discussion

At our last work session on this topic, the City reviewed the concept of assisting ISD #31 in the Gene Dillon construction project by amending the City's Utility Fund CIP and extending water and sewer mains west from the high school to Adams Avenue at an estimated cost of \$400,000. No formal approval action was taken by the City Council regarding this CIP amendment.

Municipal Utilities Agreement

Beltrami County has established seventeen (17) conditions (attached) as part of the Conditional Use Permit (CUP) for the Gene Dillon School. Two of the conditions are of major importance to the City because they carry financial consideration. These two conditions are fundamental to the entire project itself but have yet to be determined: 1) the specific cost sharing agreement between ISD #31 and Beltrami County for the required Division Street Road improvements, and 2) a municipal sewer and water services agreement to be signed prior to construction between the City, ISD #31 and Beltrami County to include connection to municipal services.

Notwithstanding these two CUP conditions have not been decided, Beltrami County has 1) issued the CUP and 2) issued a Building Permit last week on November 15. Additionally, ISD #31 went ahead and let the bids for most of the project and is scheduled to open bids on December 8. The Bemidji Pioneer reports today "two of the bid packages that will be reviewed in two weeks include utility hookups from the school site out to Division, and another for the parallel system alongside that street to Adams." Additionally, the article also notes that ISD #31 has allocated \$5m in soft costs including road improvement costs for the Gene Dillon project.

Annexation/JPB zoning

The County CUP requires a municipal services agreement for water and sewer, which in turn necessitates annexation and JPB involvement. The JPB has received a legal opinion on how the City should address the JPB zoning jurisdictional question as it relates to annexation and our municipal services agreement (attached). In addition, I

have asked JPB staff to provide for Council consideration a list of zoning concerns (attached) that are relevant to this project as it reasonable to view this as a City construction project requiring JPB attention at this time.

I met with Jim Hess and Chris Leinen Tuesday and their opinion is that ISD #31 does not need JPB involvement or City permitting because they have received a Building Permit from the County. Regarding annexation, ISD #31 desires the City to annex the property from Grant Valley shortly before the school will opens, such as August of 2018. I emphasized to Jim and Chris that the Municipal Services Agreement is required for city utilities and should commence as soon as possible, and they agree.

On Monday I need to receive council input and direction regarding your expectations regarding:

- Cost participation in Division Street utility work
- Annexation: desired area and timeline
- The municipal services agreement required by the County CUP
- The JPB's involvement in this project

I have explained to both the school and County that it is up to the City Council to determine whether it is acceptable or establishes a good precedence that a \$31m construction project requiring city services and annexation should be viewed/treated simply a County construction project.

We will first review cost estimates/updates for the utility main project to Adams, and confirm if this is something you agree to pay for. In addition, it will be important to answer whether the City Council desires ISD #31 to go through a JPB review process as part of a condition of annexation and the municipal services agreement. I am anticipating representatives of the school and county will be in attendance at this work session.



Nathan Mathews
City Manager

(Beltrami County
Gene Dillon CUP)

CUP Proposed Conditions

1. The agreement between the County and ISD #31 regarding the cost-share of required road improvements as a result of the new school is signed prior to construction.
2. Municipal sewer and water services agreement with the City of Bemidji, Beltrami County, and ISD #31, to include connection to municipal services for the new school prior to being occupied, is signed prior to construction.
3. The new school must be connected to municipal sewer and water services. If the municipal services are not possible, the applicant shall bring revised plans for sewer and water services to the Planning Commission for review and possible approval prior to construction.
4. A Phase I archaeological survey must be completed by a qualified consultant prior to construction as recommended by the Minnesota Historical Society.
5. MPCA stormwater permit (NPDES/SDS) must be in effect prior to disturbing soil on the project site.
6. All costs related to the preparation, review, and decision of the EAW must be paid prior to submitting a Land Use Permit application.
7. Beltrami County Land Use (Building) Permit must be issued prior to site preparation within the shoreland management zone.
8. All demo/debris from the site preparation and construction shall be maintained in an orderly manner, not allowed to be blown off-site, and disposed of in an approved facility.
9. All stormwater within the project area shall be treated and reduced to not exceed pre-development conditions.
10. Final stormwater plans must be submitted to Beltrami ESD prior to, or in conjunction with the Land Use Permit application.
11. All temporary soil and erosion control measures must be in place prior to disturbing the soil on site.
12. Noxious weeds on the property shall be controlled as required by MN Statutes 18.75 to 18.91.
13. No additional trees or shrubs may be removed within the building setback unless done so as part of a plan approved by Beltrami ESD.
14. Any additional earthmoving within the shoreland zone that is not included in the plans for construction of the new school (including final landscaping), parking areas, stormwater treatment, playground, and other identified areas in the submitted plans must be permitted prior to earth moving.
15. No overhead electrical transmission lines may be located within the building setback of public waters.
16. Any disturbed soils associated with new towers for transmission line must be controlled to not allow sediment to migrate to lake or wetland.
17. ISD #31 and Beltrami County Highway Department discuss options and look for options for installing bike and walking trails to the new school.



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November 15, 2016

Casey Mai
Greater Bemidji Area Joint Planning Board
P.O. Box 1100
317 4th Street NW
Bemidji, MN 56619-1100

Re: Recommendations for Addressing the Zoning Issues Associated with the New School

Dear Casey:

You asked me to provide you my recommendations regarding how best to address the zoning issues associated with the proposal to annex the School District's ("District") property, which is currently located in Grant Valley Township, into the City of Bemidji ("City") and to connect it to City water and sanitary sewer services. The issue becomes how the Greater Bemidji Area Joint Planning Board ("JPB") should address the zoning issues associated with a proposed construction project on property newly annexed into its jurisdictional boundaries.

Because the property is located within a shoreland, the District obtained a conditional use permit from Beltrami County for the proposed new school building. Among the conditions placed on the permit, the County required the District to enter into an agreement with the City prior to construction to ensure the school building is connected to City sewer and water services prior to being occupied. The need for municipal sewer and water services is emphasized in another condition, which indicates that if such "municipal services are not possible, the [District] shall bring revised plans for sewer and water services to the Planning Commission for review and possible approval prior to construction." Thus, the County made it clear construction may not occur until the provision of sewer and water services are secured.

While the conditions do not speak of annexation, I assume the City has a policy of not extending sewer and water services outside of its boundaries. Therefore, if the property is to be served by City services it will need to be annexed into the City. The City is not required to annex the District's property and so the terms and conditions under which the City will be willing to annex the property need to be set out in an agreement signed by the City and the District. It would make sense to address both the annexation of the property and the extension of services as part of the same agreement.

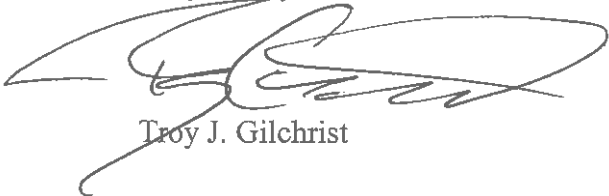
If the property is to be annexed, it is clear the execution of an agreement between the City and the District on sewer and water services is a condition precedent to beginning construction. If the District does intend to request City services, and since construction cannot begin until an agreement to extend such services is in place, it appears the best method for addressing the zoning issues related to the construction of the new school in the City is within the same agreement. The City obviously has an interest in ensuring the school complies with the zoning regulations that would apply to any other construction project occurring within the City. A new school has significant and lasting impacts on a community and raises a variety of zoning issues that need to be addressed including, but not limited to, public safety, pedestrian and traffic planning, aesthetics, setbacks, and the issuance of a building permit. The notion that a new school located within the City is to be constructed based solely on a permit issued by an agency that does not have general zoning regulations is contrary to the very purpose of zoning and the JPB.

While it is generally true that property annexed into the City is not required to obtain new zoning approvals for a use that exists on the property prior to annexation, the fact the school is not built, and construction cannot begin until an agreement is in place to provide City services, means the City and the JPB have an interest in ensuring that, at a minimum, certain zoning considerations are taken into account as part of the project. Those considerations should be identified in consultation with the JPB and be included as part of the agreement between the City and District. The timing of construction, annexation, and extension of services will be a critical part of the agreement and it can be made clear that construction may only occur in compliance with the zoning considerations set out in the agreement. Furthermore, the agreement can indicate the District will be subject to enforcement actions, including the payment of enforcement costs and legal fees, if the provisions of the agreement are not followed.

If the District is interested in obtaining City services, I recommend the JPB staff prepare a list of proposed zoning considerations to be included in the agreement that it can share with the JPB, the City, and the District for review and discussion. Once those discussions occur, a final list of zoning considerations can be developed and incorporated as part of the agreement. This approach allows the critical zoning considerations to be identified and compliance made a condition of the agreement, while avoiding the need for the District to obtain a conditional use permit from the JPB.

Please let me know if there are any questions or if I can be of any further assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Troy J. Gilchrist", written over a horizontal line.

Troy J. Gilchrist



Greater Bemidji Area Joint Planning Board

Bemidji Township City of Bemidji Northern Township

PO Box 1100 Bemidji, MN 56619 Office (218) 759-3579 Fax (218) 759-3591

November 21, 2016

Nate Mathews
City Manager
City of Bemidji
317 4th Street NW
Bemidji, MN 56601

RE: Gene Dillon Elementary School Proposed Zoning Considerations list for Annexation Agreement Discussion, as directed by JPB Attorney on November 15, 2016.

Dear Council:

The Joint Planning Board staff were directed by recommendation in a letter from Troy J. Gilchrist of Kennedy & Graven to prepare a list of proposed zoning considerations to be included in a development agreement for annexation or the extension of utility services to the proposed Gene Dillon Elementary School. Generally, a use being annexed into the city or jurisdiction of the JPB would continue to be allowed; however, this school has not been constructed and construction cannot commence until an agreement is in place.

Typically, this use would require an approved Conditional Use Permit (CUP) from the JPB; however, a CUP has already been approved and granted from Beltrami County for the proposed project. The following list describes zoning considerations such as performance standards that would be required of any development within JPB jurisdiction. Also provided is a list of conditions that would be recommended for a proposed school development CUP within JPB jurisdiction.

Performance Standards

Performance standards are established and designed to encourage a high standard of development, as well as, provide assurance that neighboring land uses are compatible. Article X Performance Standards of the Greater Bemidji Area Joint Planning Board Zoning and Subdivision Ordinance as Revised April 8, 2015 is being referenced to create this list. The JPB has not been provided with any engineering plans or material to review and comment on beyond the mandatory Environmental Assessment Worksheet (EAW) that was prepared for the project. This is a list of general performance standard review analysis typical to any site plan review performed the JPB staff.

1. Section 1002 Exterior Storage

- a. A trash enclosure screening all sides matching the exterior design materials of the building, with a secure door is required.

2. Section 1006 Landscape Requirements

- a. The applicant would be required to plant one tree per 50 lineal feet of street frontage between front property line and minimum front yard setback line.

3. Section 1008 Lighting

- a. Exterior lighting would not be allowed unless it is shielded and downward facing in order to protect adjoining properties, public waters, public streets and the night sky.
- b. All development is required to submit a lighting plan with location of lights and specification sheets for each exterior light fixture.

4. Section 1009 Parking Standards

- a. A parking space is required to be 8.5' wide and 19' in length.
- b. Concrete curb and gutter is required for surface water management, site design and long term maintenance of edges between pervious and impervious. A flat concrete edge on bituminous pavement may be substituted to all sheet flow run off.
- c. A stormwater management plan meeting City of Bemidji requirements would need to be provide.
- d. Four percent (4%) of the interior off-street parking area is required to have live landscaping including trees. This is for aesthetics and to reduce the effect of heat islands on the environment.
- e. Two way traffic with 90 degree parking requires a 24' wide driving lane.
- f. One parking space per each full-time faculty member is required.

Typical Conditions Recommended if JPB Issued Conditional Use Permit

1. Enhanced Landscaping

- a. The JPB staff would recommend that an enhanced landscaping plan be submitted showing location and species of all trees and plants on site. As this site currently has no trees in the proposed development location staff would ask for trees to be planted along all new access roads. The applicant would already be required to have one (1) tree per 50 feet of road frontage and live landscaping including trees located in the interior green space of the parking lots.

2. Signage Plan

- a. Staff would ask for a signage plan that meets the requirements of the zoning ordinance.

3. Pedestrian Connectivity

- a. Staff would ask that all on-site amenities have pedestrian walk ways and access from the building.
- b. Staff would ask for crosswalks for any crossing of access roads, as well as a pedestrian path within the parking lot.
- c. Connectivity to surrounding area for non-motorized transportation would be analyzed and discussed.

4. Transportation

- a. Staff would work with applicable road authority to ensure that items from the traffic study deemed necessary by the road authority are conditioned to be constructed before occupancy of the school.
- b. In any case where road work or utility work is to occur, a development agreement needs to be adopted by the developer and road or utility authority. Staff would recommend that a development agreement is signed before issuing a land use or building permit.
- c. JPB staff have had no contact regarding the proposed school with the road authority. It is unknown to staff what traffic improvements are being implemented from the recommended roadway improvements provided in the EAW.

This is a general list of items that would need to be provided and analyzed by the Joint Planning Board before being able to recommend approval for any development. Other site plan items would also need to be addressed such as impervious surface and setbacks, but from site plans submitted in the EAW this looks to be of no issue. A variance has also granted for the height of this structure within the shore land district.

This document was drafted by Joint Planning Board staff as a courtesy to the Bemidji City Council as they work to decide whether or not JPB review should be required as part of a development agreement. The list of recommended conditions are based on past conditions for development projects as observed by staff and not adopted or reviewed by the Joint Planning Board.

Without a review of proposed plans it is not feasible for staff to describe requirements in further detail. It is unclear whether or not any zoning requirements are already being met or if plan revisions would be necessary to meet zoning requirements.

Sincerely,



Casey Mai,
Planning Director



District to review Gene Dillon Elementary bids in December

By Joe Bowen on Nov 22, 2016 at 5:32 p.m.

2



The Bemidji School District plans to build its new elementary school here, at the intersection of Division Street and Becida Road. The plot of land covers 160 acres that includes two small ponds, just down the road from Bemidji High School. (Jillian Gandsey | Bemidji Pioneer)

BEMIDJI—Bemidji Area Schools will open construction bids for a planned elementary school later this winter.

Construction firms will have until 2 p.m. on Dec. 8 to submit bids to build the bulk of Gene Dillon Elementary School, and the school district has scheduled a meeting immediately after the deadline to open and review those bids. Superintendent Jim Hess said the bids could be qualified and presented to the School Board for acceptance in January.

"That's not work that can be hurried," Hess told the School Board on Monday. "We need to take as much time as it takes."

Hess told the board that the district is close to formally purchasing the land on which the planned school would sit. A purchase agreement has been in place for months, but it was contingent on a few conditions, like the school district receiving a conditional use permit from Beltrami County, which it did in September.

Bemidji Area Schools plans to pay \$599,000 for the land and about \$31 million for the project in total. An estimation done in August puts construction costs at \$24.1 million, and the remaining \$5 million on road improvements costs, architectural fees, construction management costs and furnishings for the school once it's built. ✓

If everything goes according to plan, construction on the new school is expected to begin this April—"whenever the frost is out of the ground," Hess said—and school district staff expect the new school will be ready for the district's grades 4-5 students by the 2018-19 school year.

Utility options

Beltrami County leaders' tentative roadway plans may solidify the school district's options to connect the planned elementary school to Bemidji's municipal water and sewer systems.

The county Board of Commissioners reviewed a slate of 2017 roadway projects last Tuesday that include an budgeted \$4.8 million to improve Division Street, also designated County Highway 7. ✓

The plans aren't final, but County Engineer Bruce Hasbargen said they would include reworking Division from Bemidji High School to Adams Avenue—which would present an opportunity for city or school district workers to install utilities underneath the roadway—but would not include a reconstruction from Adams Avenue to Becida Road, where school district leaders plan to build Gene Dillon Elementary school.

"If they have the need to open it up, it's their cost," Hasbargen said of the city and school district. "But they can do other designs."

If enacted as Harbargen described, the county's plans mean that the district would need to connect the school to Bemidji city utilities via a parallel system that runs underneath the ditch along Division or through a pipeline that would run through a series of easements east to Adams Avenue.

Two of the bid packages that will be reviewed in December include utility hookups from the school site out to Division, and another for the parallel system alongside that street to Adams.

Hess said that "more than likely" the school district will take advantage of a utility easement from the county to install buried utility lines parallel to Division and that the school district has asked the county for permission to do so.

Bemidji City Manager Nate Mathews said the city, county, and school district would need to have a municipal sewer and water services agreement in place before construction can begin. A conditional use permit granted by the county stipulates that the new building must be connected to Bemidji municipal sewer and water services and the district must come up with a revised plan if that proves unworkable.

The city still needs to annex the Gene Dillon land in order to connect those services to the planned building, and Mathews said city staff plan to schedule a meeting with the City Council in late November to discuss council members' "annexation expectations" and other jurisdictional questions.

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