

# CITY COUNCIL PROCEEDINGS

## BEMIDJI, MINNESOTA

### Regular Meeting – November 4, 2013

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, November 4, 2013 at 7:00 p.m. in the Council Chambers of City Hall, Mayor Albrecht presiding.

Upon roll call, the following Councilmembers were declared present: Albrecht, Meehlhause, Johnson, Olson, Erickson, Thompson Absent: Hellquist

Staff Present: City Manager John Chattin, City Attorney Alan Felix, Public Works Director/City Engineer Craig Gray, Finance Director Ron Eischens, City Clerk Kay Murphy

#### **AMENDMENTS TO AGENDA**

Mayor Albrecht called for any amendments to the agenda. **Motion by Johnson, seconded by Thompson, to approve the agenda as presented. Motion carried by unanimous vote.**

#### **MINUTES**

The following minutes were presented for approval:  
Council Meeting October 21, 2013

**Motion by Meehlhause, seconded by Johnson, to approve the minutes as amended. Motion carried by unanimous vote.**

#### **CONSENT AGENDA**

The following Consent Agenda items were presented for approval. **Motion by Meehlhause, seconded by Johnson, to approve the Consent Agenda items as follows:**

1. Claims Submitted by Finance Officer in the amount of \$507,834.44
2. Claims Submitted by VenuWorks for the Sanford Center in the amount of \$56,917.96
3. Approving Miscellaneous Business License Renewals for 2014
4. Approve Wine and On Sale Beer License–DoubleTree Hotel (115 Lake Shore Dr NE)
5. Approve Liquor License – Café Novo (1602 Bemidji Avenue N)
6. Declare Surplus Equipment – 2006 Jeep Wrangler – Police Dept.
7. Purchase of Used Semi-Tractor for Wastewater Treatment Plant
8. **RESOLUTION NO. 5860:** Adopting Assessment Roll for Water/Sewer Deferred Assessment Fees (Connections Completed in 2013)
9. **RESOLUTION NO. 5861:** Accepting Responsibility as Fiscal Agent on Behalf of the Greater Minnesota Regional Park & Trail Commission
10. Reapportionment of a Special Assessment - Parcel #80.00362.02 (M. Ettesvold)

**Motion carried by unanimous vote.**

#### **CITIZENS NOT ON AGENDA**

Five (5) BSU Senior Nursing Students discussed concerns they had identified regarding the crosswalks at the intersections of 12<sup>th</sup> and 14<sup>th</sup> Streets on Birchmont Drive.

City Engineer Gray stated that he believed that a 4-way stop at either 12<sup>th</sup> or 14<sup>th</sup> would be possible. An engineering traffic study has to be done in order to install a 4-way stop. However, he does not believe it would meet the engineering guidelines. He further stated that unwarranted stop signs could be more dangerous than no stop sign. He suggested that the City will look at the crosswalks in the future when Birchmont Drive is redone and he would work with BSU to make these intersections safer.

#### **COMMITTEE REPORTS**

Bemidji Youth Advisory Commission – Annika Roy, BYA representative, reported that the Holiday Mail for Heroes is set for November 21 and planning has begun on the June 7 event. She further commented that the Commission supported the ordinance regarding licensing requirements for E-cigarettes.

Librarian's Report - Paul Ericsson, Branch Manager, discussed goals and mission of the Library regarding e-government, providing public accessible technology and providing information resources to people. He briefly reviewed the monthly activity calendar.

#### **ORDINANCES**

An Ordinance Amending an Uncoded Section of the Bemidji City Code Pertaining to Street Vacation (Portion of Link Street SW) was given a first reading.

Felix commented that the City was recently notified that MnDOT is turning back the “linking” city streets between the two one-way pairs. He noted that the City Engineer has indicated that 50 feet is available on Link Street that the adjoining property owner has indicated that they would like to purchase. Staff will bring an ordinance in the future regarding a sale of that property.

An Ordinance Vacating a Portion of an Alley and Street (2<sup>nd</sup> Mill Park Addition) was given a first reading.

An Ordinance Amending Chapter 14 of the Bemidji City Code Adding Article IX Relating to Enforcement of the Statutory Prohibition of the Use and Sale of Coal Tar Sealant Products was given a first reading.

#### Fee Schedule

Pursuant to published notice, a Public Hearing was held to receive input regarding an Ordinance Amending the Fee Schedule for 2014. Mayor Albrecht opened the Public Hearing at 7:32 p.m.

Johnson asked about the connection fee for water meters. He stated that he had a couple of people inquire about the larger meters for their sprinkler systems.

Gray responded that there are usually two separate lines going into buildings. The monthly flat fee is not based on the fire flow service but based on the domestic water meter. There is no metering charge for a domestic fire service.

Hearing no further comments, Mayor Albrecht closed the meeting at 7:35 p.m.

**AN ORDINANCE** Amending the Fee Schedule for 2014 was given a second reading.

#### Chapter 12 (E-Cigarette)

Pursuant to published notice, a Public Hearing was held to receive input regarding an Ordinance Amending Chapter 12 of the Bemidji City Code entitled “Tobacco”, by amending provisions related to Licensing and Sale of Tobacco to Include Electronic Delivery, commonly referred to as E-Cigarettes. Mayor Albrecht opened the Public Hearing at 7:35 p.m.

City Attorney Felix stated the proposed ordinance updates the City’s existing tobacco licensing and sales regulations in order to incorporate the licensing and sale of electronic delivery devices or “e-cigarettes”. He further stated that the definition of smoking was put in as a placeholder. The County does address sampling in retail businesses and is in the process of amending their ordinance regarding e-cigarettes. The draft in front of the Council did not reflect removal of the definition and should have.

**Motion by Olson, seconded by Meehlhause, to adopt the amendments highlighted in yellow on the draft ordinance including striking the definition of “smoking”. Motion carried unanimously.**

Albrecht reminded those in attendance that the public hearing is regarding licensing not about use or restriction of use of e-cigarettes.

The following individuals addressed the Council:

- Matt Bewley, owner of Northern Vapes, commented about the sampling of product in his store. Felix responded that in striking the definition of smoking and the Council is waiting to see what Beltrami County will do regarding sampling.
- Megan McCormick, 3900 Irvine Avenue NW, in favor of licensing.
- Eleana Mussel, 1600 23<sup>rd</sup> Street NW, suggested that all products that help stop smoking should be licensed. Felix responded that products approved by FDA for legal sale as a cessation device are considered an exception.
- Lynn Maltais, 405 Clausen Avenue and a nursing professor at BSU, stated that e-cigarettes are not approved by the FDA as a stop smoking aid. She further commented that e-cigarettes are nicotine and a danger to pregnant women and children.
- Jay Passa, 3806 Prairie Street, stated he also works at BSU and helped develop the tobacco-free campus policy. He noted that e-cigarettes were included for a variety of reasons.

- David Bewley, 201 Anne Street, commented that customers at their store are trying to get off of cigarettes. He further stated that e-cigarettes are an important step to help people stop smoking.
- Dan Rekuski, BSU student, not a smoker but supports those that are using e-cigarettes. He asked if the City would consider eliminating the use of e-cigarettes in public places. Mayor Albrecht responded that the Council has not seen the proposed County ordinance and would not comment about that tonight.
- Courtney Peterson, 1421 Minnesota Avenue, stated that there is no evidence that e-cigarettes help people quit smoking.
- Chris Dougherty, 49932 Tallwood Trail, would like cigarettes and e-cigarettes distinguished as they are not the same.
- Mardy Lundin, American Lung Association, commented that FDA has sent out warning letters to five e-cigarette manufacturers to not promote them as cessation device as those are false claims. She stated that e-cigarette products used in public places sends the wrong message. There is a lot that still needs to be learned about these products. Ms. Lundin stated that she would like the Council to support the amendment to provide licensing as well as support the County’s ordinance.
- Heidi Prickett, 1600 23<sup>rd</sup> Street NW, stated that she was concerned that licensing and taxing e-cigarettes may make it less affordable.

Mayor Albrecht stated that the fee for cigarette licensing is an annual \$65 fee.

Councilor Olson reiterated that the Council is modifying the licensing requirement and not making a statement on whether e-cigarettes are a cessation device, whether or not it is healthy or how it compares to tobacco. The Council is not making that decision as that falls under the County’s purview and encouraged those present to attend the County’s meetings in that regard.

Mayor Albrecht closed the Public Hearing at 8:14 p.m.

**AN ORDINANCE** an Ordinance Amending Chapter 12 of the Bemidji City Code entitled “Tobacco”, by amending provisions related to Licensing and Sale of Tobacco to Include Electronic Delivery, commonly referred to as E-Cigarettes was given a second reading.

**UPCOMING COUNCIL MEETINGS**

- Tuesday, November 12 5:30 p.m. Work Session – South Shore Beach & City Manager’s Performance Review
- Monday, November 18 7:00 p.m. Council Meeting

**COUNCIL/STAFF REPORT**

- Council members provided updates on current events and meetings.

**Close Meeting to Discuss Pending Litigation Concerning Bemidji Township**

**Motion by Olson, seconded by Meehlhause, to close the meeting in accordance with Minnesota Statute Section 13D.05, Subd. 3(b) for the purpose of discussing with legal counsel threatened or pending litigation with Bemidji Township. Motion passed unanimously. Public hearing closed at 8:26 p.m.**

Staff Present: City Manager John Chattin, City Attorney Alan Felix, Finance Director Ron Eischens, Public Works Director Craig Gray, City Clerk Kay Murphy

Via Phone: Jim Thomson, Defense Counsel

**Motion by Meehlhause, seconded by Olson, to reopen the meeting at 8:51 p.m. Motion carried unanimously.**

**ADJOURN**

There being no further business, motion by Meehlhause, seconded by Thompson, to adjourn the meeting. Motion carried. Meeting adjourned at 8:53 p.m.

Respectfully submitted,

  
 Kay M. Murphy  
 City Clerk