

BEMIDJI CITY COUNCIL

Work Session Agenda

Monday, February 11, 2013

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



1. CALL TO ORDER / ROLL CALL

2. DISCUSS FUNDING FORMULA FOR THE JOINT PLANNING OFFICE

3. DISCUSS GOVERNOR'S PROPOSAL REGARDING SALES TAX ON CLOTHING

4. DISCUSS PROPOSED ORDINANCE REGARDING TAPROOMS AND OFF SALE MALT LIQUOR (GROWLERS) AS WELL AS RELATED FEES

5. COUNCIL UPDATES/QUESTIONS (Discussion only)

6. ADJOURNMENT



Bemidji Township
City of Bemidji
Northern Township

Greater Bemidji Area Joint Planning Board

PO Box 1100

Bemidji, MN 56619

Office (218) 759-3579

Fax (218) 759-3591

STAFF MEMORANDUM

February 4, 2013

Memo for: Joint Planning Board

From: Mayana Rice

SUBJECT: Updated Budget Information

A motion was made to decide on the budget contributions at the February 2013 JPB meeting after more data was provided.

Please review the attached documents and come prepared to propose an contribution percentage.



Bemidji Township
City of Bemidji
Northern Township

Greater Bemidji Area Joint Planning Board

PO Box 1100

Bemidji, MN 56619

Office (218) 759-3579

Fax (218) 759-3591

STAFF MEMORANDUM

January 10, 2013

Memo for: Joint Planning Board

From: Mayana Rice

SUBJECT: LGU Contribution Analysis

Below you will find a breakdown of all the possible ways to review the fees / workload available at this time. Because there are many different parts to this equation – please don't hesitate to ask questions prior to the next Joint Planning Board meeting.

LGU MISSION: Come prepared to the February 13, 2013 JPB meeting with a proposal from your LGU indicating your new desired contribution level.

Fact #1: A change in the fees contributed by each LGU is NOT a change in the Joint Powers Agreement. The agreement allows for contribution alterations over the years. Please read paragraph IX. Contribution to Costs, Budget and Financing ... the same may be amended, by way of the review and approval of the JPB's annual budget request.

Fact #2: A change in the fees was originally based on 4 criteria. But not limited to:

1. The relative geographic area occupied by each jurisdiction;
2. The comparative tax capacity of each jurisdiction;
3. The population of each jurisdiction as reported in the annual State Demographer's population estimate; and
4. The current makeup of the JPB membership.

Fact #3: Initial contribution analysis was performed June 2012. At the upcoming February meeting that will have been 8 months since the original analysis.

Fact #4: In order for the activities of this office to continue, until such time as the JPB makes a determination of a change in the fees each LGU will contribute, the fee and invoicing schedule will remain the same as previous years.

Any increases / decreases can be made retroactive, if the JPB chooses so, and at such a time will be collected / reimbursed appropriately.

ANALYSIS OF DATA FOR 2012

An innovative scenario exists between the 3 LGUs, through the JPB! It combines efforts on planning and zoning to accomplish the following:

1. Limits government – 1 office for 3 units of government!
2. Regionalize – allow a voting voice across jurisdictional boundaries.
3. Cost savings to constituents – citizens do not pay for a separate zoning office in each jurisdiction.
4. Creates a level playing field for development – 1 zoning code for 3 units of government!
5. Protects natural resources – 1 set of rules governing the valuable water bodies in the community.
6. Enforcement – Instead of a zoning official and land use attorney for each jurisdiction – there is a combined effort and decrease in cost for land use violations.
7. Quality of staff – allows the community to entice qualified individuals for employment, functioning as a larger organization.
8. Area wide projects – creates strength for policy changes / comprehensive planning.

What did it cost in 2012 to run the programming for the Joint Planning Board?

\$239,862

**If we divide the cost of the program by each LGU proportionally how much would each LGU responsible for?
(septic and engineering costs differ slightly based on workload)**

Bemidji Township	\$79,906	Base 1/3 + Engineering fees / Septic Fees for inspection
City of Bemidji	\$77,950	Base 1/3 + Septic Fees for inspection
Northern Township	\$82,006	Base 1/3 + Engineering fees / Septic Fees for inspection
TOTAL	\$239,862	

**What did each LGU in 2012 ACTUALLY contribute?
(Application Fees and LGU "monetary /In-Kind contributions")**

FEES COLLECTED 2012		LGU CONTRIBUTIONS		
Bemidji Township	\$16,239.00	\$33,695.00 (20%)	\$49,934.00	19%
City of Bemidji	\$17,230.00	**\$98,142.00 (50%)	\$115,372.00	44%
Northern Township	\$45,168.00	\$50,542.00 (30%)	\$95,710.00	37%
		TOTAL	\$261,016.00	

** In kind fees: \$3,000 in copy / building fees + \$8,405 engineering fees + \$2,500 GIS fees

Fact #5 Both the City of Bemidji and Northern Township contribute more than 1/3 of the operating budget. Bemidji Township contributes less than 1/3 of the operating budget.

What was the 2012 workload by LGU?

Fact #6 The workload numbers are “averages”. There are many different duties we take on for each of the LGUs that never are recorded.

WORK LOAD	AVERAGE NUMBER – PARCEL REVIEW (BASED ON PARCEL FILES PULLED)		
Bemidji Township	22 actions a month	264 per year	20%
City of Bemidji	46 actions a month	585 per year	45%
Northern Township	37 actions a month	444 per year	35%
TOTAL: 1293			

WORK LOAD	AVERAGE NUMBER-WALK IN TRAFFIC PER MONTH		
Bemidji Township	15	180 per year	22%
City of Bemidji	30	360 per year	44%
Northern Township	23	276 per year	34%
TOTAL: 816			

WORK LOAD	AVERAGE NUMBER-PHONE CALLS PER MONTH		
Bemidji Township	45	540 per year	22%
City of Bemidji	89	1068 per year	44%
Northern Township	68	816 per year	34%
TOTAL: 2424			

Activity / Permits Issued	Bemidji Twp	City of Bemidji	Northern Twp	Total
Sign Permits	2	46	9	57
Septic Permits	21	9	35	65
Lot Combinations	0	14	9	23
Lot Divisions/Realignments	4	4	4	12
Type II Home Occupations	1	0	0	1
Rezone Map Amendments	0	1	4	5
Conditional Use Permits	0	1	2	3
Interim Use Permits	0	3	4	7
Variances	2	6	3	11
Pre-Plat Meetings	0	2	1	3
Plats/Planned Unit Developments/CIC's	0	2	1	3
Rentals	0	23	0	23
New Homes	8	17	23	48
Accessory Structures	16	12	28	56
Additions	4	10	8	22
Commercial Development	0	6	1	7
Multi-family permits	0	1	2	3
Text Amendments	2	1	2	5
Tree Removal Permits	0	1	0	1
Shoreline Alteration Permits	0	8	5	13
Enforcement Actions	5	53	10	68
Animals	0	3	0	3
Total	65	223	151	439
	15%	51%	34%	100%

MEETINGS ATTENDED			
Meeting Dates	Northern Township	City of Bemidji	Bemidji Township
1/17/2012		Mayana	
1/23/2012	Andrew		
2/13/2012		Mayana	
2/15/2012			Mayana
3/12/2012	Mayana		
3/26/2012	Andrew		
5/8/2012			Mayana & Andrew
5/14/2012		Mayana	
6/11/2012	Mayana		
7/9/2012	Mayana		
7/10/2012			Mayana & Andrew
7/23/2012	Mayana		
7/24/2012			Andrew
8/6/2012		Mayana	
8/7/2012			Mayana
8/13/2012	Andrew		
9/10/2012	Mayana		
9/25/2012			Mayana
10/9/2012			Mayana
11/27/2012			Andrew
TOTALS	8	4	8
	40%	20%	40%

What does the Joint Powers Agreement indicate we should take into account for determining LGU contribution?

1. The relative geographic area occupied by each jurisdiction;
2. The comparative tax capacity of each jurisdiction;
3. The population of each jurisdiction as reported in the annual State Demographer's population estimate;
and
4. The current makeup of the JPB membership.

POPULATION

Bemidji Township	2,785	13%
City of Bemidji	14,080	66%
Northern Township	4,357	21%
TOTAL	21,222	

LAND AREA (sq acres)

Bemidji Township	12,785	27%
City of Bemidji	12,609	27%
Northern Township	21,406	46%
TOTAL	46,800	

TAX CAPACITY

Bemidji Township	1,942,583	13%
City of Bemidji	9,208,496	62%
Northern Township	3,629,717	25%
TOTAL	14,779,796	

MEMBERSHIP OF JPB

Bemidji Township	2	25%
City of Bemidji	4	50%
Northern Township	2	25%
TOTAL	8	

Combining the above factors to see what the Joint Powers Agreement indicates **should be** the LGUS contribution percentage:

LGU	% Land Area	% Tax Capacity	% Population	% JPB Membership	Total	% TOTAL
Bemidji TS	27.3	13.1	13	25	78.4	19.6%
City of Bemidji	26.9	62.3	66	50	205.2	51.3%
Northern TS	45.8	24.6	21	25	116.4	29.1%
	100	100	100	100	400	100%

If the JPB would like to take into account workload then the following table shows those percentages included:

LGU	% Tax Capacity	% Population	% JPB Membership	% Permitted Activity	% Parcel Review	% Walk In Traffic	% Phone Calls	% Meetings Attended	Total Percentages	Percent of Contribution
Bemidji TS	13.1	13	25	15	20	22	22	40	170.1	21%
City of Bemidji	62.3	66	50	51	45	44	44	20	382.3	48%
Northern TS	24.6	21	25	34	35	34	34	40	247.6	31%
	100	100	100	100	100	100	100	100	800	100%

CONCLUSIONS

If we look at any ONE factor individually – the numbers can be skewed to give a certain LGU the advantage.

Who pays the most? City of Bemidji

Who pays the least? Bemidji Township

Who brings in the most permit fees? Northern Township

Who brings in the least permit fees? Bemidji Township

Who pays the highest per constituent? Northern Township / Bemidji Township

Who pays the least per constituent? City of Bemidji

So when the original Joint Powers Agreement was signed – the formula to find out the most FAIR way to divide the amount of money each community was willing to pay to have a Joint Planning Office, was the four criteria; LAND AREA, POPULATION, TAX CAPACITY AND NUMBER OF SEATS ON THE JPB.

WHAT ARE THE CHOICES THE JPB HAS AS THIS TIME?

1. Remain at the 20 -30 -50 (BTS – City – NTS)
 - a. Bemidji Township \$33,695.00
 - b. City of Bemidji \$84,237.00
 - c. Northern Township \$50,542.00
2. Change the percentages to the exact percentages per the Joint Powers Agreement – 19.6 -51.3-29.1 (BTS – City – NTS)
3. Change the percentages to the percentages per the Joint Powers Agreement + workload – 21 -48-31 (BTS – City – NTS)
4. Change the percentages strictly based on the change in LAND AREA, POPULATION, TAX CAPACITY AND NUMBER OF SEATS ON THE JPB – per Phase 1 of annexation. As outlined in my June 2012 memo.
 - a. Bemidji Township decrease by 2% (\$673) - \$33,022
 - b. City of Bemidji increase by 3% (\$2,527) - \$86,764
 - c. Northern Township decrease by 1% (\$501)- \$50,037

COUNCIL AGENDA ITEM



Meeting Date: February 11, 2013

Action Requested: Review/Discuss Taproom/Off Sale Malt Liquor *Kay*

Prepared By: Kay Murphy, City Clerk

Reviewed By: John M. Chattin, City Manager

I asked to delay the first reading of the proposed ordinance adding the authority to allow licensed taprooms and off-sale malt liquor (growlers) to allow an opportunity to research and discuss the license fees.

Attached is a letter from the Minnesota Department of Public Safety (DPS) regarding Brewer's taproom on sale liquor licensing. I direct your attention to page two regarding 2 a.m. licensing and Sunday licensing. The 2 a.m. license fee and application are directly with the DPS. However, if a taproom wishes to serve on Sunday, they must be a restaurant which is allowed under MS 340A.301, Sub. 6b.

The following fees are what other similar cities (split liquor cities) collect:

	<u>Walker</u>	<u>Two Harbors</u>
Taproom License	\$300	\$500
Sunday Taproom	\$100	Not available
Off-Sale Malt Liquor or Small Brewer	\$240	\$250

Bemidji's current Sunday license for On Sale Liquor is \$200 (set by State Statute).

RECOMMENDATION:

Direct city staff as to license fees desired to amend the City's 2013 Fee Schedule.

CITY OF BEMIDJI

ORDINANCE NO. __, 3rd Series

AN ORDINANCE AMENDING THE CITY CODE, CHAPTER 4 ENTITLED "ALCOHOLIC BEVERAGES" BY ADDING AUTHORITY TO ALLOW LICENSED TAPROOMS AND OFF-SALE MALT LIQUOR (GROWLERS)

THE CITY OF BEMIDJI ORDAINS:

SECTION 1. Chapter 4 of the Bemidji City Code, entitled "Alcoholic Beverages is hereby amended to add, Sec. 4-100, as follows:

Sec. 4-100 is hereby added reading as follows:

4-100. – Off-sale malt liquor.

- (a) License authorized. Notwithstanding any provision of the City Code to the contrary, the Council may issue a license for the off-sale of malt liquor produced and packaged on the licensed premises.
- (b) Applicant. The applicant for a license under this section must be a brewer licensed under Minnesota Statute §340A.301, Subd. 6(d)(i) or (j) in order to be licensed for the off-sale of malt liquor produced and packaged on the licensed premises.
- (c) Terms and conditions of license.
 - (1) No license is valid until approved by the Commissioner.
 - (2) The off-sale of malt liquor, permitted by this Sec. 4-100, may only be made during the days and hours that off-sale of liquor may be made at the municipal liquor store.
 - (3) The malt liquor shall be packaged in sixty-four-ounce containers commonly known as "growlers" or in seven hundred fifty (750) milliliter bottles and bear a twist-type closure, cork, stopper or plug.
 - (4) The malt liquor sold off-sale must be removed from the licensed premise before the applicable closing time of the City of Bemidji municipal liquor store(s).
 - (5) At the time of sale, the "growler" or 750 milliliter bottle must be sealed by a paper or adhesive band strip or sleeve that is applied over the top of the twist-type closure, cork, stopper or plug in such a manner that the seal must be broken in order to open the container and the adhesive band or strip or sleeve shall bear the name and address of brewer.
 - (6) The "growlers" or 750 milliliter bottles shall be indentified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling

the malt liquor and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with applicable Minnesota law, rules and regulation.

- (7) A brewer's total retail sales at on-sale or off-sale under this Sec. 4-100 and Sec. 4-101 may not exceed 3,500 barrels per year and off-sales under this Sec. 4-100 may not exceed 500 barrels per year.
- (8) All other provisions of this chapter, and all other applicable laws, statutes, ordinances, rules and regulations shall be applicable to licenses issued pursuant to this Sec. 4-100 and the licensees of such licenses unless inconsistent with the provisions of this section.
- (d) Fees. The annual license fee for a license to be issued pursuant to this Sec. 4-100 shall be as established from time to time by a resolution of the City Council.
- (e) Other licenses. A brewer licensed under this section may hold or have an interest in a retail on-sale license issued pursuant to Sec. 4-91 of this Code unless the brewer licensed under this section was licensed as a brewer under Minnesota Statutes §340A.301, Subd. 6, clause (d).

SECTION 2. Chapter 4 of the Bemidji City Code, entitled "Alcoholic Beverages" is hereby amended to add, Sec. 4-101 as follows:

Sec. 4-101. - Brewer taprooms.

- (a) License Authorized. Notwithstanding any provision of the City Code to the contrary, the Council may issue a brewer taproom license for the on-sale of malt liquor produced on the licensed premises.
- (b) Applicant. The applicant for a license under this section must be a brewer licensed under Minnesota Statute Section 340A.301, Subd. 6(c), (i), or (j).
- (c) Terms and conditions of license.
 - (1) No license is valid until approved by the Commissioner.
 - (2) The on-sale of malt liquor, permitted by this Sec. 4-101, may only be made during the days and hours that on-sale of liquor may be made by holders of on-sale intoxicating liquor licenses issued pursuant to this Chapter 4.
 - (3) A brewer may only hold one (1) brewer taproom license under this Sec. 4-101 and may not have an ownership interest in a brewery licensed under Minnesota Statutes §340A.301, Subd. 6, clause (d).
 - (4) The only alcoholic beverage that may be sold or consumed on the premises of the holder of a brewer taproom license will be the malt liquor produced by the brewer upon the brewery premises.
 - (5) All other provisions of this chapter, and all other applicable laws, statutes, ordinances, rules and regulations shall be applicable to licenses issued

pursuant to this Sec. 4-101 and the licensees of such licenses unless inconsistent with the provisions of this section.

(6) Nothing in this Sec. 4-101 precludes the holder of a brewer taproom license from also holding a license to operate a restaurant on the premises of the brewery.

(d) Fees. The annual license fee for a license issued pursuant to this Sec. 4-101 shall be as established from time to time by a resolution/fee ordinance amendment of the City Council.

SECTION 3. This Ordinance shall become effective thirty (30) days after its passage and publication according to law.

Ayes:

Nays:

Absent:

First Reading:

Second Reading:

Final Reading:

ATTEST:

APPROVED:

Kay M. Murphy, City Clerk

Rita C. Albrecht, Mayor



Alcohol and Gambling Enforcement

444 Cedar Street • Suite 222 • Saint Paul, Minnesota 55101-5222
Phone: 651.201.7506 • Fax: 651.297.5259 • TTY: 651.282.6555
www.dps.state.mn.us

June 16, 2011

To City License Officials

Re: Brewer's Tap Room On sale Intoxicating Liquor License.

During the 2011 Minnesota Legislative Session, Minnesota Statute 340A.301 was amended to include a provision allowing for properly licensed malt beverage manufacturers (Brewers) to apply for a retail on-sale intoxicating liquor license. The license called a brewer tap room license is to be issued by the city where the brewery is located and allows for the sale of beer brewed by the brewer to retail customers. The tap room on sale license is subject to the annual license fees charged by local jurisdictions. The license must provide valid liquor liability insurance. The issuing authority is to notify the Commissioner of Public Safety of brewer tap room licenses issued.

The wording of the legislation is as follows:

Subd. 6b. Brewer taproom license. (a) A municipality may issue the holder of a brewer's license under subdivision 6, clause (c), (i), or (j), a brewer taproom license. A brewer taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. Nothing in this subdivision precludes the holder of a brewer taproom license from also holding a license to operate a restaurant at the brewery. Section 340A.409 shall apply to a license issued under this subdivision. All provisions of this chapter that apply to a retail liquor license shall apply to a license issued under this subdivision unless the provision is explicitly inconsistent with this subdivision.

(b) A brewer may only have one taproom license under this subdivision, and may not have an ownership interest in a brewery licensed under subdivision 6, clause (d).

(c) A municipality may not issue a brewer taproom license to a brewer if the brewer seeking the license, or any person having an economic interest in the brewer seeking the license, is a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually.

(d) The municipality shall impose a licensing fee on a brewer holding a brewer taproom license under this subdivision, subject to limitations applicable to license fees under section 340A.408, subdivision 2, paragraph (a).

(e) A municipality shall, within ten days of the issuance of a license under this subdivision, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The municipality shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

EFFECTIVE DATE. This section is effective the day following final enactment.

Enactment of this legislation was upon the signature of the Governor. The legislation was in effect as of May 24, 2011.

Alcohol and Gambling Enforcement

ARMER/911 Program

Bureau of Criminal Apprehension

Driver and Vehicle Services

Homeland Security and Emergency Management

Minnesota State Patrol

Office of Communications

Office of Justice Programs

Office of Traffic Safety

State Fire Marshal and Pipeline Safety



The Alcohol & Gambling Enforcement Division wishes to stress to local licensing officials that this legislation is intended to allow a properly licensed malt beverage manufacturer (brewer) in Minnesota to add an on sale intoxicating liquor license as defined above. The license allows the brewer to only sell/serve their brewed product. It does not provide for full on sale liquor license privileges. There is no requirement for a retail identification card (buyer's card) due to there can be no legal purchase of distilled spirits wine or beer from outside distribution sources. If the brewer wishes to be open on Sunday and or until 2 a.m. they would have to apply for and qualify for the additional licenses.

Any applicant's approaching local license officials should be able to answer the following questions.

1. Are you a brewer?
2. Where is your licensed brewery location?
3. Please provide a copy of your Minnesota malt beverage manufacturing license.

If they are not licensed as a Minnesota brewer, they would not qualify for the tap room on sale license. License officials could request a business plan from the perspective applicant in order to insure their proposed business activity falls within the legal parameters of the law.

We have attached a sample license application a city may use to issue and certify to our agency that they have issued a brewer's tap room on sale license. We hope this aids you in the application and information gathering process. If you have any questions related to this license you may contact our office directly at (651) 201-7507.

Signed,

Michael T. McManus
Alcohol Enforcement Administrator
Minnesota Department of Public Safety
Alcohol & Gambling Enforcement Division
(651) 201-7502