

Study Meeting #15
Monday, May 22, 2006, 7:00 p.m.
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027

- Call to Order** Acting Mayor Steve Peterson called the meeting to order at 7:01 p.m.
- Roll Call** *Present:* Acting Mayor Steve Peterson and Councilmembers R. Axtell, S. Elkins, A. Grady, K. Nordstrom, and V. Wilcox (arrived at 7:07 p.m.).
Absent: Mayor Gene Winstead.
- Awarded a Contract to Max Stieninger Inc. ITEM 3.1** Motion was made by Grady, seconded by Nordstrom, and all voting aye, to award a contract to Max Stieninger Inc. in the amount of \$3,961,421.07 for the 2005-201 Street Improvement Project. This project reconstructs American Boulevard from Dupont Avenue to Nicollet Avenue.
Funding for this project will be from Federal Aid, State Aid, budgeted Utility Maintenance Funds, and Internal State Aid maintenance funds. The City has received all necessary Minnesota Department of Transportation (MnDOT) approvals needed to award the project. The majority of the construction will be in 2006, with final cleanup in the spring of 2007.
- Approved Advancement to Nechville Music Products ITEM 3.2** Motion was made by Grady, seconded by Nordstrom, and all voting aye, to approve an additional advancement of \$20,000 in relocation benefits at this time to Nechville Music Products. (The total advancement up to this time has been \$57,601.)
- Ordered 2006-901 Storm Sewer Maintenance Project ITEM 3.3A** Motion was made by Grady, seconded by Nordstrom, and all voting aye, to order the 2006-901 Storm Sewer Maintenance Project. This project includes maintenance of the storm sewer system at eight sites throughout the city, as identified on the map included with the agenda materials.
Funding is included in the Storm Water Drainage Utility Budget for this work so no assessments will be involved with this project.
- Approved Plans, Specs & Schedule for 2006-901 Project ITEM 3.3B** Motion was made by Grady, seconded by Nordstrom, and all voting aye, to approve the plans, specifications and proposed schedule for the 2006-901 Storm Sewer Maintenance Project per Amended Item 3.3B. (The project is as listed in Item 3.3A.)
- STUDY ITEM #1 External Auditor's Draft Report on 2005 Review** Julie Vogel, Finance Manager introduced David J. Mol and David E. Blumberg, Representatives of HLB Tautges Redpath, Ltd., the City's external auditors who presented the draft results of their review of the City's year-end financial position and the results of fiscal operation for calendar year 2005. No Council action was requested at this time. Their presentation included the following:
- Draft Comprehensive Annual Financial Report (*Intend to issue a clean opinion.*)
 - Draft Audit Committee Letter
 - Draft Report on Internal Controls (*No reportable conditions noted.*)
 - Draft State Legal Compliance Report (*No findings of noncompliance.*)
 - Draft Federal Compliance Report (Single Audit) (*No findings of noncompliance.*)
 - Audit Committee Letter (*One change in policy in 2005 relating to GASB 40.*)
 - Financial Summary (*All positive fund balances at the end of 2005 for the gov't. funds.*)
 - Statement of Activities
 - General Fund
 - General Fund Balance (*Adequate fund balance as of 12/31/05.*)
 - Enterprise Funds
 - Internal Service Funds (*Intended to be almost fully funded in 2006 and 2007.*)
 - Recently Issued Accounting Standards

**STUDY ITEM #1
continued**

Axtell requested specifics on the items included in the Audit Committee Letter relating to Other Matters.

Vogel stated the Council will formally accept the audit on June 15, 2006.

**STUDY ITEM #2
Recommendations
from the
Administrative
Study Group on
Non-Smoking Issues**

Karen Zeleznak, Public Health Administrator reviewed the recommendations of the Administrative Study Group relating to the Phase 2 restrictions on tobacco use on City-owned property. Her presentation included the following:

- City of Bloomington Smoke-free Policies & Ordinances
- Purpose of Phase 2
- Administrative Study Group Membership
- City-Owned Property
- Current Status
- Smoke-Free Parks & Recreational Facilities in Minnesota
- Smoke-Free Parks (Metro Communities with tobacco-free parks policies)
- A review of the four options for Council consideration:
 - A. *No change.*
 - B. *No tobacco use in City owned parks, open spaces, conservation and recreation areas with the following exceptions: (golf courses, designated outdoor smoking areas in BIG, spectator areas at athletic fields during organized adult recreational events, picnic shelters during private rentals, personal vehicles in parking lots, special exemptions approved by Park Director, e.g. historical programs and theatrical productions).*
 - C. *No tobacco use in City owned parks, open spaces, conservation and recreation areas with the following exemptions: (personal vehicles in parking lots, and special exemptions approved by Parks Director, e.g. historical programs and theatrical productions).*
 - D. *Phase in Options B & C over a 2-year time period (2007-2008).*

Zeleznak stated the trend throughout the state is to limit the number of exemptions.

Randy Quale, Parks & Recreation Manager reported the City has received feedback relating to an ongoing problem with littering of cigarette butts in City parks. He believes that would lessen if more smoking restrictions were imposed.

Nordstrom inquired if there was any reason not to choose Option #C.

Zeleznak replied staff was thinking more in terms of a phased-in approach.

Quale stated there would likely be some resistance from users regarding additional restrictions and there is the issue of notifying the public of the new restrictions and the enforcement of any new restrictions.

Zeleznak suggested that as there are signed contracts in place for park users, it might be better to transition into an ordinance change.

Nordstrom suggested implementing the new restrictions in 2007.

Axtell inquired if there has been any public input on Phase 2. He stated his preference would be that golf courses be exempt.

Grady inquired as to how many cities have as strong a ban as Option #C.

Quale replied that staff could provide that information to Council but guessed there are seven or eight communities that have a full ban.

Zeleznak stated Edina and Golden Valley have very strict policies that include their golf courses.

**STUDY ITEM #2
continued**

Clark Arneson, Acting City Manager explained Council could give staff direction to take this item back to the Parks, Arts & Recreation Commission (PARC) or direct the City Attorney to prepare an ordinance to get public feedback at the commission level.

Grady suggested PARC look at the golf course issue and follow it up with a report to Council to see if Option B or C could be implemented in 2007.

Elkins stated his preference for a phased-in approach.

Staff stated Option B could take effect in 2007 and Option C in 2008.

Grady suggested it would best to sign everything one time and requested additional information on the difference between Options B & C.

Peterson stated there appears to be a majority of support to get something implemented in 2007 and that it could end up somewhere between Options B & C or something different depending on the additional information staff brings back. He suggested sending it to the appropriate commissions for hearings with a recommendation to the Council. He suggested the City Attorney draft an ordinance for a public hearing at the Council level once it's been reviewed by the PARC Commission.

**STUDY ITEM #3
Engineering Division
Staffing Workloads**

Per Council's previous request, Charlie Honchell, Public Works Director and Shelly Pederson, City Engineer reported on the workload and staffing needs of the Engineering Division.

Pederson's presentation included the following:

- The Engineering Division's Objective
- Exhibit A: 2006 Civil Engineers Estimated Workload Totals
- Design 2006 Hours
- Construction 2006 Hours
- Studies 2006 Hours
- Contract Engineer 2006 Hours
- Deferred or Eliminated Activities 2006
- Deferred or Eliminated Activities to 2007
- Deferred or Eliminated Activities to 2008
- Deferred or Eliminated Activities to 2009
- Figure 1: Civil Engineers Staffing Forecasting Estimate
- Figure 2: Example of 2007 Civil Engineer Staffing for Full Workload (*Bar Graph*)
- Exhibit B: Example of 2007 Civil Engineer Staffing for Full Workload (*Dollar Amounts*)
- Outcomes: Choose additional funding, and if not funded, prioritize the list of deferred/eliminated projects/studies/tasks to be completed.

Honchell explained that Council could recommend a dollar amount so staff could further review which projects are feasible to complete and which ones could be deferred. He stated it would be nice to have more staff but it is extremely difficult to hire contract staff.

Elkins inquired if Port Authority could help fund some of Engineering positions.

Arneson replied that Port is already helping fund two Planning positions.

With regard to the hiring problem, Grady inquired if the City is competitive with its salary.

Pederson stated that a salary of between \$100,000 - \$114,000 would be competitive for an engineer with a few years of experience.

Honchell stated the body of available engineers is fairly small and if the City is trying to find someone to oversee some of these complicated projects, it will need to find someone with experience. The City's salaries are competitive but not attractive enough to get someone to leave their current job. He stated two senior civil engineers are needed.

**STUDY ITEM #3
continued**

Arneson stated Council could discuss a dollar figure or decide on which projects they want Engineering to pursue so that a total cost estimate on what it would take to accomplish the work could be determined. As budget discussions are beginning, this information would be helpful for Public Works.

Peterson stated this should be considered in relation to the budget and that the City should only bite off the projects on the deferred list that it can pay for.

Arneson stated Engineering could provide Council with a survey form to prioritize the various projects for further discussion at the June study meeting.

Elkins agreed with Engineering's prioritization of projects except that he believed more time should be allocated to strategic planning.

Honchell stated staff would devise categories in which the various projects could be prioritized.

When asked what project is very time consuming, Pederson replied that traffic calming is a time hog.

Council inquired if there was any progress regarding Stanley Avenue.

Pederson replied that staff has been preoccupied with the situation on Fremont Avenue but that it would get back to exploring the Stanley situation.

Council consensus to continue this discussion at the June study meeting with more detailed information to be provided by staff prior to that meeting.

**STUDY ITEM #4
Discussion Regarding
Changeable Message
and Image Signs**

Peterson explained that he had requested staff look into the issue of image signs after he returned from a National League of Cities conference during which council members from other cities asked him if the City of Bloomington was having problems with these types of signs.

Larry Lee, Director of Community Development explained that if the City Council agrees that changeable message electronic signs, projected signs and other aspects of the City's sign ordinance require review, Council could do the following:

- Direct staff to prepare a study of the issues and make recommendations for revising the City's sign ordinance;
- Indicate direction on whether the Council would be amenable to hiring a consultant to assist with research and preparing an ordinance amendment. (*One estimate received for consultant assistance was \$9,000.*)
- Ask the City Attorney to prepare a moratorium ordinance prohibiting installation of new changeable message signs and signs created by projecting light onto building surfaces until December 19, 2006 (six-month moratorium) when the study and any resulting ordinance revisions could be completed.

Lee recommended Council direct staff to look at ordinance amendments and prepare a 6-month moratorium expiring on December 19, 2006.

Dave Ornstein, City Attorney stated he requested one of his associate attorneys completely review the City's sign Code in light of the challenges facing other cities. He recommended undertaking a study and imposing a 6-month moratorium. He stated an outright ban might not be realistic but imposing regulations would be beneficial.

Council inquired about the use of signs on moving trucks and signs on buildings and animated video signs.

Axtell inquired if any developers would be impacted by such a moratorium.

Nordstrom inquired why a 6-month moratorium.

**STUDY ITEM #4
continued**

Ornstein replied that it would give staff time to complete a study, draft an ordinance, and take it to the Planning Commission and the Traffic & Transportation Advisory Commission prior to bringing it back to Council. He added both Legal and the Planning Division recommend hiring an additional consultant in the amount of \$9,000 to assist staff.

Grady inquired if the City's existing ordinance would prevent Wixon Jewelers from creating a moving sign and if the current ordinance could be amended to prevent moving pictures instead of spending \$9,000 on a consultant to help assist staff in anticipation of these type of sign applications. She suggested allowing Wixon Jewelers to have their picture and that Council could pursue the issue if it gets worse in the future.

Lee stated staff is researching to find language that would be legally defensible and that if Council wants to pursue this, staff would collaborate to put together a scope and the related costs to do the scope.

Bob Hawbaker, Planning Manager added that the City needs to make sure that any changes tie in with the rest of the ordinance.

Wilcox mentioned that others might say the City got what it wanted and now they've enacted a moratorium.

Lee stated staff would research the issue of regulating signs on trucks. He added that Council could prepare a study of the issue without enacting a moratorium.

Peterson added that if the City doesn't act, the use of moving signs could impose a safety problem, which could impact the capacity on Bloomington streets, as traffic could stall.

Arneson suggested staff could put together a slide show on what the City currently regulates and what might be coming in the future.

Grady inquired how the current ordinance could be tweaked to deal with what is coming in the future without putting a lot of money into it now.

Peterson stated it would be good to have the research available to make the proper determination and that knowing how courts have ruled in the past would also be helpful.

With regard to lawsuits, Ornstein mentioned that the City's deductible is \$100,000 and it wouldn't take very long to reach that amount in litigation costs. He stated Sandra Johnson, Associate City Attorney is reviewing the City's ordinance to see how it compares to those in other cities where sign ordinances are being challenged.

Wilcox stated he would have no problem with a 6-month moratorium but believes it will cost more than the estimated \$9,000 for consultant help.

Ornstein stated if the City adopts a strict ordinance, it could get challenged by the billboard companies or it could go to the State legislature where they could pass legislation to prohibit cities from enforcing such ordinances.

Motion was made by Grady, seconded by Wilcox, and all voting aye, to direct the Legal staff to complete the research process already in progress, which would take at least a couple of months and that Council could impose a three-month moratorium at its June 5 Regular Council meeting.

**STUDY ITEM #5
2006 Collector
Street Striping
Reconfiguration**

This item was postponed to a future meeting.

**STUDY ITEM #6
Discussion on a
Moratorium Involving
Pawnshops**

Ornstein presented the staff report explaining the Planning Division requested him to review pawnshops in regard to the rezoning process. He stated there are two pawnshops in Bloomington - Pawn America and Metro Pawn and that the character of the proposed new commercial zoning District B3 would change. There are 17 parcels currently zoned B3. Planning indicates pawnshops would not be compatible in the B3 zoning district. It could be limited to the B2 zoning district but that would open it up to more locations. He stated pawnshops could not be banned altogether. Staff is proposing a 6-8 month moratorium so Legal can look into limiting pawnshops through the licensing process. They would look into safety concerns, the overall impacts of pawnshops in communities, and buffering standards in relation to pawnshops.

Grady stated she has a concern that secondhand stores are doing the same thing as pawnshops and inquired if they should be handled the same way and in the same ordinance.

Ornstein replied that secondhand stores could be included in an 8-month moratorium.

Wilcox added that he'd like to see an update on the license fees charged for pawnshop licenses.

Motion was made by Wilcox seconded by Grady, and all voting aye, to request staff bring back a draft ordinance on June 19 imposing an 8-month moratorium that would also include secondhand dealers.

**STUDY ITEM #7
B.U.Y. Coffeehouse**

Randi Wallenberg, Recreational Supervisor & Randy Quale, Parks & Recreation Manager presented the staff report. They indicated staff met with the Bloomington United for Youth (BUY) organization to discuss their feasibility plan for a coffeehouse. Their presentation highlighted the following issues relating to a BUY coffeehouse:

- Targeted opening date is fall 2006.
- BUY's needs.
- Location considerations: Creekside Community Center (900 square feet of classroom, cafeteria, billiards, etc.) was but is no longer being considered as an option.
- Cal's Market: freestanding space.
- Next steps and a request for Council feedback.

Grady inquired if BUY had looked at any School District spaces.

Wallenberg replied she wasn't sure.

Jim Truax, Director of Community Services commented that according to BUY, school and church locations are not desirable locations.

Axtell commented on an estimated cost of \$400,000 to add onto the existing Creekside building.

Peterson remarked that a rental situation would better to get BUY started so they could work their way towards ownership once they have an established business plan. He suggested the City could contribute funding in the amount of 10-20% of their budget towards a coffeehouse.

Wilcox agreed that BUY should find a location and rent to begin with and that once it's established and successful, they could take it to the next level.

Grady suggested there might be some space to rent along Lyndale Avenue.

Arneson summarized Council consensus to research a 2,500 square foot size rental space with a 3-year commitment by the City for some building improvements and the phasing in of a business plan whereby the City's maximum contribution would be \$100,000. BUY to prepare a document defining their goals and a business plan that includes their commitment to get additional funding and will report back to Council.

**STUDY ITEM #7
continued**

Peterson suggested the City could be responsible for 2-3 years operation of a coffeehouse and between \$50,000 and \$100,000 for a total overall contribution.

Axtell stated he would like to see the School District participate also to make this a joint effort between the School District and the City.

Wilcox suggested BUY also contact churches for support and agreed that BUY should define their specific goals.

Motion was made by Elkins, seconded by Nordstrom, and all voting aye, to direct staff to assist BUY in looking for a rental space of approximately 2,500 square feet with a three-year commitment by the City to provide some tenant improvements and a funding contribution level capped at \$100,000, which could be phased in over the three-year period, and that BUY develop a business plan that includes their goals and a commitment to explore funding contributions from other organizations within the community.

Additional Comments

Arneson commented on the following items:

- Two development proposals submitted as a result of the City's Request for Proposals for the area at American Boulevard & Lyndale Avenue came in modestly below market value compared to what the City Assessor believes they are worth so they will come back to Council. He stated the situation, however, poses a policy question for Council. Does Council want to sell it for what's on the table and then figure out where the rest of the money will come from or wait for a better opportunity.
- Council's availability to meet with Carl Neu. (*Council consensus to meet with Mr. Neu on July 26 at 3 p.m.*)
- Council's availability to meet to discuss strategic planning. (*As none were working for Council, Staff was directed to come up with some alternative dates.*)
- Provided Council with an article on the work Curt Johnson has been doing in other communities around the country.

Adjourn Meeting

Acting Mayor Peterson adjourned the meeting at 10:05 p.m.

Barbara Clawson
Council Secretary