

Council Chambers  
Ely, Minnesota  
Tuesday, April 14, 2009  
7:00 P.M. Special Meeting  
Ely City Council

Special Meeting of the Ely City Council was called to order at 7:00 P.M. by Mayor Roger J. Skraba.

PRESENT: Council members Debeltz, Nikkola, Omerza, Salerno, Sheddy, Zupec,  
Mayor Skraba (7)  
ABSENT: None (0)

Mayor Skraba read the following special meeting notice:

#### NOTICE TO THE PUBLIC

Notice is hereby given that there will be a Special Meeting of the Ely City Council to take place on TUESDAY, April 14, 2009, at 7:00 P.M. Council Chambers of the Ely City Hall, for the following purpose: to address various requests by the Boundary Waters Blues Festival organizers.

BY ORDER OF THE ELY CITY COUNCIL  
Patricia M. Wellvang, Deputy Clerk

Mayor Skraba informed audience members that there was a sign up sheet which they must sign in with their name and address, if they wished to speak to any issue involving the 2009 Boundary Waters Blues Festival.

City Attorney Kelly Klun presented a background of information she compiled, as to the City's options addressing zoning issues for this festival. In reviewing Section 11.40 of current city code, the listing of permissible and conditional uses for various zoning districts classification list does not contain the use as requested by the Boundary Waters Blues Festival. A use similar to fairground needs could be added to the classification list, and if the Council so chooses to add fairground needs to the current classification list, the City can then decide what type of permit they would like to grant in order to permit the use in various districts. She provided Council members with a sample use of "fairground" to the current classification list, placing an "I" in various zoning districts, which indicates interim use. Interim use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. Interim uses must be provided for in the ordinance and a landowner must enter into an agreement. The question before the Council tonight is whether the City of Ely will support the location of Lots 4, 5 and 6 of the Ely Business Park for the Boundary Waters Blues Festival. In order for the City to legally allow for such use, the following changes need to be made to the current code:

1. Fairground or a description of the use that best represents this event must be added to the classification list of permissible uses in the Code;
2. In addition, a section must be added defining interim uses and the procedure necessary to grant such use.

Attorney Klun further stated that if the City decides to move forward with this event, the City must first establish the necessary provisions in the Ordinance, and to do so, a hearing must be scheduled and a first and second reading of the Ordinance change, along with publication of the Ordinance. If this happens, the party can then apply for an interim use permit and can enter into an agreement with the City. Absent this change in zoning ordinance, Attorney does not feel that this festival location would be in the best interest of the City and could open up the City to potential liability.

Council member Salerno: City could follow above steps in changing the zoning ordinance ( an interim permit would be for one event only)

Council member Sheddy: questioned the one event use, also concerns from the Department of Revenue and Navigant who occupy offices in the proposed immediate area;

City Operations Director Langowski: discussed concerns brought forward regarding the traffic, parking – Washington Street will not be used for festival parking, with the only traffic flow on the street being the residents. There will be no problem getting power to the festival – the \$500.00 requested deposit will be to cover cost of clean up if needed.

Council member Omerza: will there be any conflict with the hours that SATO and the Department of Revenue work – is there an actual parking plan to view and if not, will this be attached as part of the lease. Also questioned additional overtime for city employees; namely the Ely Police Department. Alcohol, gambling permits will be required –

Mayor Skraba: would like to see the music ending at 9:30 P.M. – discussed how much money will be spent in Ely ( \$11,000 – advertising); there will be sound protection in the back of the stage facing Washington Street – the sound man will control the volume of the sound. Questioned security.

Mike Jankovec: will hire security also.

Council member Sheddy: gambling; raffle and meat wheel

Council member Omerza: what is the projected number of cars that will need to be parked in that area

Mike Jankovec: 560 people / 3 days 200 – 400 cars off site parking

Council member Nikkola: organizers need to find another site for next year.

Mike Jankovec: the music will be ending at 9:30 P.M. and this language can be incorporated into contract agreement.

He would like to clear up the issue that this is the only location he can do the festival at now in 2009; if this location is not approved, he will have to pull the plug and the festival will not be back in Ely. Hundreds of thousands of dollar are spent here and there is currently \$11,500.00 in advertising budget with funding from the IRR and Chamber of Commerce.

He is aware of complaints from residents in the area; the sound curtain is made from absorbent material. Trucks will also be parked East of the area which will also act as a sound dead-ner. The sound guy controls the level of music and adjustments can be made if the sound is too loud – all it would take is a telephone call to Jankovec.

Mayor: no council member has said that they don't want the Blues Festival in Ely – the Council will work to try to do this.

Mary Cich – there will be at least one security officer on sight; there will be volunteer security also.

Council member Omerza: Parking – how many cars are expected?

Mary Cich: 560 persons over 3 days; several hundred cars – she will be figuring out the traffic flow and parking.

Mike Jankovec: this would be a one time event; does not intend to use the Miner's Drive area again after this year if approved.

Council member Nikkola: Intent is great but we do not know what would be available next year, either.

Council member Omerza: Wanted to make it clear that she is not against the Boundary Waters Blues Festival and she has never publicly nor privately said this. Questioned when Mike and Mary knew they would not be holding this festival in Winton, and when they started looking for alternate sites.

Mike Jankovec: In January.

#### PUBLIC COMMENT

Theresa Harris  
100 Miners Drive Steger Mukluks

- inquired as to a plan for parking in that area

City Operations Director: parking will be allowable on both sides of Miner's Drive, clearing the current exit entrances with signs posted – NO PARKING  
Signs will be posted on Miner's Drive – road closed / local traffic only.

Theresa: suggested signs state Private Driveway; inquiring as to whether or not the City would be waiving the charge every time their alarm system goes off during that time period.

Attorney Klun: cars can be towed if violating policy.

Jeanie Tome'  
Northwoods Townhomes

- what is City's liability – there currently is fencing around a mound of dirt in that area. Allowing camping – will there be a provision for gray water coming from RV or tents.

City Operations Director: The fence is a safety fence. There will be a provision stating that there will be no dumping allowed; containment in RV's.

Midge Davis  
SATO TRAVEL

Enjoys the music but doesn't know if the Business Park is the right place to hold this festival.

- concerned with crowd noise after the music is done. There is a clause for Quiet/Enjoyment in the current contract SATO Travel has with the City of Ely.

Attorney Klun: There is a clause in the current lease; a City official would not be able to enter the premises without a purpose.

Jim Belehar  
Wendy Varey  
VFW Post #2717, Ely

- feels this festival will be positive for business.

Cliff LeRoy  
1521 Highway #1

- Allowing the Festival to take place where requested would be for the community's greater good. With the current economy it will be a good thing to have this festival in Ely. It may offend a few people but the greater good is for the community.

Bill Erzar  
1232 Heather Street  
Ely Car Wash Business

- referenced the many business closings in Ely – the dollars spent here in Ely if the Blues Festival is allowed is a good deal.

Chuck Novak  
124 E. Chapman St.

- feels the festival will be good for Ely. This festival has been awarded Proclamations by past Mayors; organizers were even awarded a key to the City by former Mayor Lolita Schnitzius for their efforts. Zoning – “temporary moratoriums” can be addressed – please support this request.

Joe Baltich Jr.  
Fernberg Road

- attended past Boundary Water Blues Festivals and was astounded by the organization and security at the festival – very ordered. He understands the City’s position but urges the Council to give it a try for this one year.

Rebecca Stouffer  
240 N. 5<sup>th</sup> Avenue East

- concerned resident in that area, and would not want to see a precedence set for using that area near the Trezona Trail. She is all for City realizing dollars but urged the Council to also consider the quietness of the area – the animals, hiking trail – there could be another spot selected.

Chris Tournat  
312 E. Conan St.

- She has been a volunteer coordinator for the past two years festival. Music is important – people attend from all over and they love being in Ely. People attending this festival are older aged people – festival organizers have very upstanding volunteers. Urging Council members to please give the organizers a “break” in allowing this festival to take place at requested site for 2009- everyone needs to pitch in and do what they can to support this festival.

John Beano  
2210 Echo Trail

- Supports the Boundary Waters Blues Festival. Works part time for the Minnesota Department of Corrections as a professional and would be willing to volunteer his services in seeing the festival to success. Would like to see this festival grow larger.

Sue Spoon  
Palo

- Attends the Boundary Waters Blues Festival and always feels safe and comfortable with the festival attendees. She feels it is a good experience to attend and a better choice than Bayfront Festival.

Larry Reedy  
529 E. Washington St.

- Is not opposed to the Blues Festival but does have some concerns. When the Business Park was formed with covenants, it was for light industrial uses. The Council approved and introduced a set of covenants which addressed setbacks on parking, with actual covenants going beyond the zoning issues. Why are there no other options for sites to hold this festival. The City will need to be dealing with zoning laws.

Attorney Klun: Covenants contain a clause addressing festival fairground, park area. Recreational use is the broader part – this could entail a concert – code needs to be matched to current covenants.

Mayor Skraba: The festival takes place 2 ½ days – is it a good policy – City must look at zoning code – interim permit is not in Code but could be – City has now identified this issue and have looked at the code.

Council member Zupec: When the Business Park regulations were draw up, they were loosely written – so they could be changed.

Council member Salerno: referenced living near the Shagawa Lake Public Landing – experiences disruptions all year long.

Penny Reedy  
529 E. Washington St.

- is concerned that the rules have not been followed in this case.

Mayor Skraba: A final okay cannot be given on the festival until the zoning is passed.

Council member Debeltz: Group looked at the Softball Field Area, but there is no place for camping, nor room for parking. The wetlands have been filled and there is no room to camp.

Penny Reedy

- Is not against the Boundary Waters Blues Festival – she is just not comfortable with the requested location. Nothing has been addressed to date of those persons residing West or South of this area. How is the noise going to be controlled? She also is a business owner in the community and would like to see business – questioned whether the campground near Trezona Trail in Spaulding had ever

been considered. Pertaining to a comment made prior on Larry Reedy conducting an auction where a public road was closed down for a period of time, she noted that Larry had to jump through the proper hoops with the City, in order to conduct this auction.

Mike Jankovec: will give out his cell number to neighbors in the event the sound is too loud they can call him. The sound man he has retained is going to direct the sound in a NW direction.

Mayor Skraba: takes in issues regarding public sentiment.

Chuck Novak

- temporary zoning could be granted. If the Council is going to move forward in this direction they should also consider that area is utilized for watching the Fourth of July fireworks; the city does make extraordinary decisions at times.

Linda Dalley  
Irresistible Ink

- is concerned about security and parking. Company closes at 4:30 – 5:00 P.M. during the week days anyway.

Jason Kelly  
1133 E. Washington St.

- Curious as to City's involvement in this festival. Will there be additional city police officers on duty; is concerned about potential vandalism in that area, suggesting that the City should consider having more than one officer on duty during the festival. He is representing other young families concerns that reside in this area.

Mayor Skraba: the City will try to have enough police protection, along with organizers.

Attorney Klun: Again reiterating that under current Zoning Ordinances and City Code, there is not anything addressing festivals. The Council will need to do the following if approving request to hold Boundary Waters Blues Festival in Miner's Drive area:

1. Hearing to be conducted to changing the Zoning Code – "Use" Industrial or Parks;
2. Interim Use Permit – Applicant Applies for a certain number of days.

Mayor Skraba: Information has been taken tonight –our City Code needs interim language in order to move forward with request.

Council member Sheddy: Fireworks is a new issue – this is also the area where people go to watch the fireworks display.

Council member Omerza: Feels this whole situation is backwards – deciding bad policy – City has now been put in that position.

Council member Zupec: Covenants address in item #9 – Parks/ Recreation – It is the Council’s discretion as to what to allow in this area.

Moved by Zupec supported by Sheddy, that request to hold the Boundary Waters Blue Festival at the Miner’s Drive location be approved based on exemption from Business Park Covenants.

Council member Debeltz: Requested that City Attorney Klun weigh in on the intent of this motion.

Attorney Klun: Covenants are rules of what you can and cannot do. Covenants state that the City wants to have land use – park/recreation – City can have this. If the Council’s intent is to move forward with this request, the zoning use has to be changed, by creating a list of uses in the City Code.

Council member Zupec: Questioned City Attorney Klun as to how the City can now move forward to expedite this procedure within a reasonable time frame.

Attorney Klun: If moving forward on request there needs to be a ten day publication as to a public hearing on a zoning change. Attorney can draft an ordinance for Council to address at their April 21<sup>st</sup> regular meeting; a hearing should then be posted with a ten day posting period; the ordinance can be given a second and final reading and publication at the regular city council meeting following this hearing.

Council member Omerza: Is concerned the City is undertaking a huge risk at this time.

Attorney Klun: The City is faced with a difficult situation that cannot be answered today – working with government is a timing issue.

Council member Nikkola: Questioned Attorney as to whether it would be proper for the Council to proceed with a contract, providing that everything comes out properly, after the hearing.

City Attorney: This would fill the bill.

Council member Zupec withdrew his original motion, Council member Sheddy withdrew his support.

Moved by Zupec supported by Sheddy, that the City of Ely go on record supporting the Boundary Waters Blues Festival, supporting doing procedure necessary as outlined by the



City Attorney's communication dated April 14, 2009 as to zoning and entering into agreement, and to keep moving forward with the interim use permit.

City Attorney Klun: Would like to clarify that she is not making policy as to this issue; the Council is.

YES: Council members Debeltz, Nikkola, Salerno, Sheddy, Zupec, Mayor Skraba (6)

NO: Council member Omerza (1)

ABSENT: None (0)

Motion carried.

Moved by Nikkola supported by Debeltz, that tonight's meeting adjourn.  
Carried unanimously.

Meeting adjourned at 8:50 P.M.

Submitted by:

Alan White  
Confidential Accounting Clerk

Patricia Wellvang  
Deputy Clerk