

## **Ely City Council Regular Meeting November 17, 2009**

The Ely City Council regular meeting was called to order by Mayor Skraba at 6:30 p.m. on November 17, 2009 at the Ely City Hall.

**PRESENT:** Council members Debeltz, Nikkola, Salerno, Sheddy, and Mayor Skraba (5)

**ABSENT:** Council members Omerza and Zupec (2)

Moved by Salerno supported by Debeltz to approve minutes of the November 3, 2009 Regular Meeting and November 10, 2009 Special Meeting as presented. Motion carried unanimously.

Addition/Omissions to the Agenda:

1. Delete Old Business Item #3, City Center Building discussion;
2. Delete Committee Reports Item A: Standing –Employee Relations Hiring Process;
3. Add Mayor's Agenda Item 2 –US Border Patrol Building Grand Opening.

Moved by Debeltz supported by Salerno to approve the following changes to the agenda. Motion carried unanimously.

Mayor's Agenda:

Mayor Skraba extended his thanks to the American Legion for inviting the Clerk and him to their annual dinner at the Community Center. He reminded everyone that Veterans on the Lake is always accepting donations.

Moved by Salerno supported by Debeltz to authorize the Mayor to attend the grand opening of the new Border Patrol building in Duluth on December 8. Motion carried unanimously.

Consent Agenda Items:

1. Moved by Salerno supported by Nikkola to appoint Larry Polyner to the Street and Infrastructure Committee. Motion carried unanimously.
2. Moved by Debeltz to authorize Assistant Police Chief Lahtonen to attend the C.L.E.O. and Command Academy at Camp Ripley in Little Falls, February 2-5, 2010. Motion died for lack of support. Moved by Salerno supported by Nikkola to table the request until it is reviewed by the Employee Relations Committee. Motion carried unanimously.
3. Moved by Nikkola supported by Salerno to permanently change the location of the Projects and S&I Committee meetings to the Joint Maintenance Facility beginning with the meeting on December 14, 2009. Motion carried unanimously.

### **REQUESTS TO APPEAR BEFORE**

Paul Ivancich presented an information packet on behalf of the Chamber of Commerce's beautification project. The Chamber received a grant from the IRR in the amount of \$9,500. The Chamber Board decided to break the project into 2 phases and he requested the council review the packet and provide a letter of support.

Moved by Debeltz supported by Salerno to send a letter of support to the Chamber for the improvements as presented. Motion carried unanimously.

Director Langowski will work with the Chamber to review their in-kind request and bring it back to council and EUC.

### **COMMITTEE REPORTS**

Mayor Skraba reported that he attended an emergency preparedness meeting where they set up the decontamination tent today. He also attended a school meeting in Tower to talk about different options for school district #2142 and other districts. Mayor Skraba suggested the council identify the location of the Mesabi Trail in town as the development of the trail is getting closer to Ely. He reported on the recent Biomass meeting.

## DEPARTMENTAL REPORTS

### Clerk-Treasurer

Moved by Debeltz supported by Salerno to approve the payment of the City and EUC Bills and Payroll for the 2<sup>nd</sup> half of November, 2009 as presented. Motion carried unanimously.

Moved by Salerno supported by Debeltz to approve the Assistant Clerical & Assistant Treasurer Hiring/Rating forms and the process as presented. Motion carried unanimously.

The council tentatively approved interviewing candidates for the Assistant Treasurer position on December 4<sup>th</sup>.

The council reviewed the options from Northland Securities for the proposed \$200,000 fire truck bond. Council member Salerno requested a breakdown of cost between Commercial and Residential. No action was taken at this time. This issue will be discussed again in December.

Moved by Salerno supported by Debeltz not to waive the monetary limits on tort liability established by MN Statutes 466.04 as recommended by the League of MN Cities and authorized the clerk to sign the waiver form as presented. Motion carried unanimously.

Clerk Boese reviewed the 2008 unallotment and informed the council that she had talked to representatives from the county and state regarding the possibility of the city being penalized for levying for the unallotment. At this time, there will be penalty and the council will have the opportunity to review the budget again at the December 22<sup>nd</sup> budget meeting.

### City Operations Director

Director Langowski reviewed the Phase I Environmental Site Assessment information received from NTS on the old public works facility site. He will get quotes on Phase II clean up of the site.

City Center funding options were presented for council review. The options included providing space for the current county and city offices and library. A public meeting will be held in early 2010.

A meeting date with county representatives has not been scheduled yet. Director Langowski is coordinating dates with Terry Soderberg.

### EUC Consent Agenda Items:

1. Approved the Chamber of Commerce request for EUC assistance in putting up Christmas decorations.
2. Approved the required annual safety inspection on the two bucket trucks and two diggers from Diversified Inspections/ITL for \$1,470.00.
3. Approved payment of the October #2 Bills List for \$17,354.39.
4. Approved payment of the Partial Pay Estimate #1 for the 2<sup>nd</sup> Avenue West Street Surfacing for \$22,466.42 to Ulland Brothers, Inc.
5. Approved payment of the RLK, Inc. Invoice #11 for the 2<sup>nd</sup> Avenue West Utilities Project for \$6,327.50.
6. Approved payment of the O'Connor Consulting Invoice for \$587.76.
7. Approved payment of the KBM, Inc. Invoice #090913 for the 2009 Reconductoring for \$3,670.96.

Moved by Salerno supported by Nikkola to approve consent agenda items 1-7 as presented above. Motion carried unanimously.

Director Langowski is currently working on commercial lighting rebate programs and ways to meet the conservation improvements plan. The EUC will be doing a florescent light bulb promotion and recycling in December.

## COMMUNICATIONS

The council will be meeting with Representative Dill and Senator Bakk on December 4<sup>th</sup> at the City Hall.

Clerk Boese reported that the U.S. Forest Service Biomass Grant Application has been submitted.

The council received Patricia Lammi's letter of resignation from the Telecommunications Advisory Board. Moved by Debeltz supported by Shedly to accept Patricia Lammi's resignation and send her a letter of thanks.

The next RAMS meeting will be on Thursday, December 10, 2009 at 6 p.m. at the Buhl Senior Center.

The council reviewed the Volunteer Fire Relief Association Investment Report Card as received from the Office of the State Auditor.

#### CLAIMS FOR PAYMENT

- A. RLK Inc. Final Payment Estimate No. 4 for Harvey/Conan Alley Utility Improvements \$15,888.74
- B. Klun Law Firm Invoice #16003, dated November 12, 2009 for \$12,718.86 – Clerk's office: Wellvang
- C. Klun Law Firm Invoice #15979, dated November 2, 2009 for \$198.09 – General Ely Matters
- D. Wells Fargo Invoice #0001-290553AD8 dated October 5, 2009 for \$461,640.35
- E. Terrys Operational Services for October, 2009, Wastewater Treatment Facility Operational Report/Invoice \$650.00
- F. MacQueen Equipment Inc. for Invoice#1090171 dated November 6, 2009 for \$405,212.29 – Ely Municipal Airport Oshkosh HB Chassis 2010

Moved by Shedly supported by Salerno to approve claims for payment A-F as presented above. Motion carried unanimously.

#### OLD BUSINESS

Moved by Salerno supported by Debeltz to waive readings in entirety of all ordinances and resolutions on tonight's agenda. Motion carried unanimously.

Council member Omerza arrived at 7:12 p.m. She reported on the Coalition meeting she will be attending over the next 3 days and reviewed for the council the Coalition's potential lawsuit regarding LGA unallotment. Omerza questioned how the council would like her to vote on supporting this action by the Coalition. No action was taken at this time and the council requested Omerza bring additional information back after the meeting.

The Partners Board met and are working on a pilot program to help schools begin recycling in schools. Director Langowski was contacted by Mary Zupancich of Ely Bloomenson Community Hospital regarding their interest in recycling cardboard.

Moved by Debeltz supported by Salerno to approve the 2<sup>nd</sup> reading, adoption and publication of Ordinance No 235 amending Chapter 6 Sec. 6.35 Licensing Requirements of Pawnbrokers. Roll call: Debeltz-yes; Nikkola-yes; Omerza-yes; Salerno-yes; Shedly-yes; Mayor Skraba-yes. Motion carried unanimously.

#### **ORDINANCE NO. 235, 2<sup>nd</sup> Series**

#### **AN ORDINANCE OF THE CITY OF ELY, MINNESOTA, AMENDING THE ELY CITY CODE, CHAPTER 6, SECTION 6.35, RELATED TO LICENSING REQUIREMENTS OF PAWNBROKERS**

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

**SECTION 1.** Section 6.35 of the Ely City Code shall be amended to read as follows:

#### **SEC. 6.35. PAWNBROKERS.**

**Subd. 1. Purpose.** The City Council finds that the use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to easily and quickly receive and transfer property stolen by others. The City Council also finds that

consumer protection regulation is warranted in transactions involving pawnbrokers. The purpose of this Chapter is to prevent pawn businesses from being used as facilities for the commission of crimes and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the City.

To assist the Police Department in better regulating current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information. This Chapter also implements and establishes the potential future use of the automated pawn system (APS).

**Subd. 2. Defined.** The term “pawnbroker” as used in this Section means any person who engages in the business of lending money on the deposit or pledge of personal property in excess of \$25.00 or more or ~~chooses in action~~ deals in the purchasing of personal property or other valuable thing on condition of selling the same or returning the same to the pledgee or depositor or to his agents or assigns, at a stipulated price; or who loans money secured by chattel mortgage or on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker business includes buying personal property previously used, rented or leased, or selling property on consignment, the provisions of this Chapter shall be applicable. Provided, that the definition of a pawnbroker shall not include any lending institution chartered or licensed and supervised or regulated by the State or Federal government, or agency thereof, where the pledge of property is strictly for the purpose of securing repayment of a loan.

**Subd. 3. Licensing.**

**A. License Required.** It is unlawful for any person to engage in the business of, or operate as, a pawnbroker without a license therefore from the City.

**B. Background Checks Required.** Background checks are authorized by this ordinance and state statute, including, but not limited to, MN Statute Chapter 13 and MN Statute Chapter 364. The Ely Police Department is hereby authorized to conduct said background investigations. An applicant’s failure to provide consent may be grounds for denial of license. Criminal history data that the police department receives shall be maintained by the department, but may be used to screen applicants for licenses required by the ordinance.

**C. Application.** Application for a City license to conduct business as a pawnbroker shall be made at least forty-five (45) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

1. Applicant's full legal name.
2. All other names under which the applicant conducts business or to which applicant officially answers.
3. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, etc.)
4. Full address of applicant's permanent residence.
5. Telephone number of applicant's permanent residence.
6. Full legal name of any and all business operation(s) owned, managed, or operated by applicant, or for which the applicant is an employee or agent.
7. Full address of applicant's regular place of business (if any).

8. Any and all business related telephone number(s) of the applicant.

9. The type of business for which the applicant is applying for a license.

10. Whether the applicant is applying for an annual or daily license.

11. Authorization for a background check through the Minnesota Computerized Criminal History Data and release of the information to the Ely Police Department by signed consent.

12. The period during which the applicant intends to conduct business.

13. Any and all address(es) and telephone number(s) where the applicant can be reached while conducting business within the City, including the location where pawnbroker intends to set up business.

14. A statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor, or misdemeanor for violation of any State or Federal statute or local ordinance, other than traffic offenses.

15. A list of the three (3) most recent locations where the applicant has conducted business as a pawnbroker.

16. Proof of any required County license.

17. Written permission of the property owner or the property owner's agent for any property to be used by a pawnbroker.

18. A general description of the items to be sold or services to be provided.

19. All additional information deemed necessary by the City Council.

20. If a City license is denied, the City shall provide the applicant with the reasons for denial.

**D. Application Execution.** All applicants for a license under this Chapter shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof. Any falsification on a license application shall result in the denial of the license.

**E. Fee.** All applications for a license under this ordinance shall be accompanied by the fee established in the City's fee schedule as adopted from time-to-time by an ordinance passed by the Council.

**F. Procedure.** Upon receipt of the completed application and payment of the license fee, the City Clerk shall forward the application to the Council within seven (7) regular business days of receipt. An application shall be determined to be complete only if all required information is provided. The City Clerk, within seven (7) regular business days of receipt, shall determine if the application is complete. If the Clerk determines that the application is incomplete, the Clerk shall inform the applicant of the required necessary information which is missing. The Council shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. There may be an occurrence of questionable identity in regard to the applicant. If this should occur the applicant will be asked for fingerprint verification in cases where it is not clear if a record based on a name and date of birth search actually belongs to the applicant. The applicant will also be subject to additional FBI Criminal History

Background investigations. Within twenty-one (21) regular business days of receiving the application from the City Clerk, the Council shall vote whether or not to issue the license. If the Council approves the application, the Clerk shall be instructed to issue a license to the applicant. If the Council rejects the application, the applicant shall be notified in writing of the Council's decision, the reason for the denial, and of his or her right to appeal the denial by requesting, within twenty (20) days of receiving the Council's notice of rejection, a public hearing to be heard by the City Council or its Committees within twenty (20) days of the date of the request. The Applicant may be entitled to the Administrative Appeals Provision found in Ely City Code Section 2.05. The final decision of the Council following the Public Hearing shall be appealable by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

**G. Duration.** An annual license granted under this ordinance shall be valid for one (1) calendar year from the date of issue. All other licenses granted under this ordinance shall be valid only during the time period indicated on the license.

**Subd. 4. Ineligibility for License.** The following shall be grounds for denying a license under this ordinance:

A. The failure of the applicant to obtain and show proof of having obtained any required County license.

B. The failure of the applicant to truthfully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to authorize a background check through the Minnesota Computerized Criminal History data, or the failure to pay the required fee at the time of application.

C. The conviction of the applicant within the past five (5) years from the date of application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's credibility, ability to conduct the business for which the license is being sought in an honest and legal manner or that will adversely affect the health, safety, and welfare of the residents of the City.

D. The revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a pawnbroker.

E. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than two (2) complaints against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or four (4) such complaints filed against the applicant within the preceding five (5) years.

F. Failure to comply with Subd. 8.

**Subd. 5. Suspension and Revocation.** Any license issued under this subdivision may be suspended or revoked at the discretion of the City Council for violation of any of the following:

A. Fraud, misrepresentation, or incorrect statements on the application form.

B. Fraud, misrepresentation, or false statements made during the course of the licensed activity.

C. Conviction of any offense for which granting of a license could have been denied under Subdivision 4 of this ordinance.

D. Violation of any provision of this ordinance.

The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as pawnbrokers on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a pawnbroker on behalf of the licensee whose license is suspended or revoked.

**A. Notice.** Prior to revoking or suspending any license issued under this ordinance, the City shall provide the license holder with written notice of the alleged violation(s) and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

**B. Public Hearing.** Upon receiving the notice provided in Paragraph A, the licensee shall have the right to request a Public Hearing before the City Council. If no request for a hearing is received by the City Clerk within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a Public Hearing is requested within the stated time-frame, a hearing shall be scheduled within twenty (20) days from the date of the request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

**C. Emergency.** If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a pawnbroker licensed under this ordinance, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent Public Hearing as prescribed in Paragraph B of this Section.

**D.** The City and Police Department will comply with MN Statutes 364 and 13 as applicable.

**Subd. 6. Transferability.** No license issued under this ordinance shall be transferred to any person other than the person to whom the license was issued.

**Subd. 3. 7. Bond Required.** Before issuing a pawnbroker's license as provided herein, the applicant shall file with the City Clerk a bond issued by a licensed surety company, acceptable to the City, in the penal sum of ~~\$1,000.00~~ \$5,000.00 in favor of the City, conditioned that said applicant will observe the conditions and provisions of this Section, and further conditioned that any person pawning any article to him shall, at any time and under conditions agreed upon between said person and the licensee, receive back the article so pawned, and any person leaving any article with him who shall not, at the time and upon conditions, receive back such article in accordance with the conditions under which such article was pawned, may bring an action in his own name against said licensee, and recover from the licensee and his sureties such sum as shall compensate him for his damage.

~~**Subd. 4. Conditions of Licensing.** Every licensee shall keep at his place of business an accurate register in which shall be entered a complete description of the item along with the serial number and model number where they exist, the date and time when received, and any permanent descriptive mark or serial number by which such property may be identified, together with the full name, driver's license number or Minnesota Identification Number, date of birth and residence address of the owner. Such register shall be neat and legible without erasures and, together with the terms of the pledge, open to inspection by the Police Department at all reasonable times together with any personal property deposited or pledged with the licensee.~~

**Subd. 8. Records Required.** At any time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in the English language the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department:

A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such

item.

B. The purchase price, amount of money loaned upon, or pledged therefor.

C. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

D. Date, time, and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records. The identifiers shall be consecutively numbered and for the purpose of the reporting requirements shall include any identifiers that may have been voided for any reason.

E. Full name, residence address, residence telephone number, and date of birth of the person from whom the item of property was received.

F. The identification number and state of issue for any of the following forms of identification of the seller:

1. current valid driver license.
2. current valid Minnesota identification card.
3. current valid photo identification card issued by another state.

G. The signature of the person identified in the transaction.

H. A color photograph or color video recording of:

1. Each customer involved in a billable transaction.  
2. Each item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.

3. If a photograph is taken, it must be at least two (2) inches in length by two (2) inches in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction so that they relate. Such photographs must be available to the Chief of Police, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises.

4. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must verbally inform the person that he or she is being videotaped and must display a sign of sufficient size in a conspicuous place on the premises, notifying persons that they are being videotaped. The licensee must keep the exposed video tape for three (3) months unless requested by the Police Department to keep the tape longer.

5. Within 60 days after notification by the Police Department, the color photograph requirements under this subdivision shall be fulfilled by submitting the photographs as digital images, in a format specified by the Police Department, electronically cross-referenced to the reportable transaction they associated with notwithstanding the digital images may be captured from required video recordings. This provision does not alter or amend the requirements of paragraph A.

I. Renewals, Extensions, and Redemptions. For renewals, extensions, and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

J. Inspection of Records. The record required hereunder must at all reasonable times be open to inspection by the Police Department. Data entries shall be retained for at least three (3) years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.



K. An applicant agrees to cooperate with, implement, and utilize the automated pawn system (APS) in the event the city adopts the APS. In such an event, any applicant or license holder must comply with such system.

**Subd. 9. Daily Reports to Police.**

A. Unless otherwise authorized by the Police Department, licensees must provide to the Police Department the information required in Subd. 8 by transferring that information from their computer to the Police Department via modem or by delivering a legible copy to the Police Department. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the Issuing Authority using a dial callback protocol or other procedures that address security concerns of the licensees and the Issuing Authority. The Licensee must display a sign of sufficient size, in a conspicuous place on the premises, which informs all patrons that all transactions are reported to the Police Department daily.

B. Licensees will be charged monthly for billable transactions at the current rate established by the City Council.

C. If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department printed copies of all reportable transactions along with the videotape(s) for that date by 12:00 noon the next business day. If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as provided for herein, but may be charged an additional fee as established by the City Council for each transaction submitted in this manner after the close of the first business day following the day of failure. If the problem is determined to be outside the licensee's system, the licensee must continue to provide the information as provided for herein, but shall not be subject to an additional charge.

D. If a licensee is unable to capture, digitize or transmit the photographs required in this subsection the licensee must immediately take all required photographs with a still camera, immediately develop the pictures, cross reference the photographs to the correct transaction, and deliver them to the Police Department by 12:00 noon the next business day. Licensees may be subject to an additional charge for each photograph submitted in this manner after the close of the first business day following the failure.

E. Notwithstanding any other provisions herein, the Police Chief, or the Chief's designee, upon presentation of extenuating circumstances, may extend the period before any additional charges are imposed for the manual reporting of billable transactions.

**Subd. 10. Receipt Required.** Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. The receipt must include at least the following information:

A. The name, address, and telephone number of the licensed business.

B. The date and time the item was received by the licensee.

C. Whether the item was pawned, consigned or sold, or the nature of the transaction.

D. An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

E. The signature or unique identifier of the licensee or employee that conducted the transaction.

F. The amount advanced or paid.

G. The monthly and annual interest rates, including all pawn fees and charges.

H. The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.

I. Full name, residence address, residence telephone number, and date of birth of the pledger or seller.

J. The identification number and state of issue from any of the following forms of identification of the pledger or seller:

1. current valid Minnesota driver license.

2. current valid Minnesota identification card.

3. current valid photo driver license or identification card issued by another state.

K. The signature of the pledger or seller.

L. All printed statements as required by Minnesota Statutes, Section 325J.04, subd. 2 or any other applicable statutes.

**Subd. 11. Redemption Period.** Any person pledging, pawning, or depositing an item for security must have a minimum of 90 days from the day of that transaction or any renewal or extension, to redeem the item before it may be forfeited and sold. During the 90-day holding period, items may not be removed from the licensed location.

Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, or to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the Police Department. Written authorization for release of property to persons other than the original pledger must be maintained along with original transaction record.

**Subd. 12. Holding Period.** Any item purchased by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

**Subd. 13. Police Order to Hold Property.**

A. Investigative Hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of the initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to Subd. 13.B or 13.C, whichever comes first.

B. Order to Hold. Whenever the Chief of Police, or the Chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Chief or the Chief's designee. The order to hold shall expire 90 days from the date it is placed unless the Chief or the Chief's designee determines the hold is still necessary and notifies the licensee in writing.

C. Order to Confiscate. If an item is identified as stolen or evidence in a criminal case, the Chief or the Chief's designee may:

1. physically confiscate and remove the item from the shop, pursuant to a

written order from the Chief or the Chief's designee, or

2. place the item on hold or extend the hold as provided in Subd. 13.B, and leave the item in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee and shall provide the licensee the name and telephone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Chief of Police, or the Chief's designee, shall so notify the licensee.

**Subd. 14. Inspection of Items.** At all times during the term of the license, the licensee must allow the Chief of Police, or the Chief's designee(s), to enter without notice the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, ware, and merchandise, and records therein to verify compliance with this Chapter or other applicable laws.

**Subd. 15. Label Required.** Licensees must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the pawn shop's records, the transaction date, the name of the item, and the description or the model and serial number of the item as reported to the Police Department, whichever is applicable, and the date the item is out of pawn and can be sold, if applicable. Labels shall not be reused.

**Subd. 5. 16. Unlawful Acts.** It is unlawful for any pawnbroker to:

- A. Lend money on a pledge at a rate of interest above that allowed by law; or
- B. Have stolen goods in his possession and refuse to permit a law enforcement officer to examine them during usual business hours; or
- C. Sell pledged goods before the time to redeem (which shall be at least sixty (60) days has expired); or
- D. Having sold goods which were previously pledged or deposited, refuse to disclose to the pledger the name of the purchaser or the price for which sold; or
- E. Make a loan on a pledge to a person under lawful age, without the written consent of his parent or guardian; or
- F. Transact licensed business between the hours of 5:00 p.m. on Saturday and 9:00 a.m. on Monday, nor between the hours of 5:00 p.m. and 9:00 a.m. on Monday through Saturday, nor on New Year's Day and Christmas Day; or
- G. Fail to hold pledged property when ordered to do so by the Police Department.

**Subd. 17. Violations and Penalties.** Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and upon conviction of any violation shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or a jail sentence not to exceed ninety (90) days, or both. Each day a violation exists shall constitute a separate violation for the purposes of this Subdivision.

**Subd. 18. Severability.** Should any Section, clause or portion of this ordinance be found invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, such finding shall not apply to any other Section, clause, or portion of this ordinance, unless the court's findings specifically provides otherwise.

**Subd. 19. Licensing Fees.** A schedule of license fees shall be available at the City Clerk's office for review by prospective applicants.

**SECTION 2. Effective Date:** Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective immediately after final adoption and publication.

First Reading: 11/3/2009

Second Reading: 11/17/2009

Adopted this 17<sup>th</sup> day of November, 2009.

Moved by Salerno supported by Shedly to approve the 2<sup>nd</sup> reading, adoption and publication of Ordinance No 236 amending Chapter 2, Section 2.16 Relating to Criminal History Background for Applicants for City Employment. Roll call: Debeltz-yes; Nikkola-yes; Omerza-yes; Salerno-yes; Shedly-yes; Mayor Skraba-yes. Motion carried unanimously.

### **ORDINANCE NO. 236, 2<sup>nd</sup> Series**

#### **AN ORDINANCE OF THE CITY OF ELY, MINNESOTA, ADDING TO THE ELY CITY CODE, CHAPTER 2, SECTION 2.16, RELATING TO CRIMINAL HISTORY BACKGROUND FOR APPLICANTS FOR CITY EMPLOYMENT**

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

**SECTION 1.** A new Section shall be added to Chapter 2 as Section 2.16, of the Ely City Code to read as follows:

#### **SEC. 2.16 APPLICANTS FOR CITY EMPLOYMENT.**

**Subd. 1. Purpose.** The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in Subd. 2, whether paid or voluntary.

**Subd. 2. Criminal History Employment Background Investigations.** The Ely Police Department is hereby authorized, consistent with Minnesota Statutes, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for all regular part-time or full-time employees of the City of Ely and other positions that work with children or vulnerable adults within the city, unless the city's hiring authority concludes that a background investigation is not needed.

In conducting the criminal history background investigation, in order to screen employment applicants, the Ely Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the hiring authority, including the City Council, the City Clerk-Treasurer, or other city staff involved in the hiring process.

**Subd. 3. FBI Investigation.** Positions which require working with children or vulnerable adults, or in cases where the applicant's identity is in question, will mandate an additional FBI criminal history background investigation at which time a fingerprint card must be submitted by the applicant.

**Subd. 4. Consent Required.** Before the investigation is undertaken, the applicant must authorize the Police Department, by written consent, to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. An applicant's failure to provide consent may disqualify the applicant for the position sought.

**Subd. 5. Grounds for denial of employment.** Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought, pursuant to Minnesota

Statutes, Chapter 364. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- A. The grounds and reasons for the denial.
- B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
- C. The earliest date the applicant may reapply for employment.
- D. That all competent evidence of rehabilitation will be considered upon reapplication.

**SECTION 2. Effective Date:** Pursuant to Section 3.08 of the Charter of the City of Ely, Minnesota, the adoption of this Ordinance is effective immediately after final adoption and publication.

First Reading: 11/3/2009

Second Reading: 11/17/2009

Adopted this 17th day of November, 2009.

Mayor Skraba reported that he and Council member Salerno are working on the RFP's for the building and plumbing inspectors and will have a draft to present to the council in December.

#### NEW BUSINESS

Moved by Salerno supported by Debeltz to approve the Minnesota Power Foundation grant application for the Pillow Rock project for \$2,000 as presented. Motion carried unanimously.

Moved by Nikkola supported by Debeltz to approve Change order No. 2 for Harvey/Conan Alley utility improvements in the amount of \$2,348.00 as presented by RLK. Motion carried unanimously.

Moved by Shedly supported by Nikkola to cancel the study session on November 24<sup>th</sup>. Motion carried unanimously.

Motion by Salerno supported by Debeltz to cancel the study session on December 29<sup>th</sup>. Motion carried unanimously.

The meeting was closed at 7:32 p.m. for union negotiations strategy.

Meeting reopened at 7:54 p.m. Moved by Nikkola supported by Salerno authorizing Clerk Boese to work with Attorney Klun to draft a 2010 contract with the Supervisors of Other Than Essential Employees union for presentation to the council and union for approval. Motion carried unanimously.

The council conducted the annual review for Clerk/Treasurer Boese as an open meeting due to technical difficulties with the recording equipment. Moved by Omerza supported by Shedly to approve Clerk Boese's successful completion of her 1 year probationary period. Motion carried unanimously.

Moved by Omerza supported by Salerno to adjourn at 8:30 p.m. Motion carried unanimously.

Terri Boese  
Clerk Treasurer