

## **Ely City Council Regular Meeting July 19, 2011**

The Ely City Council Regular Meeting was called to order by Mayor Skraba at 6:00 p.m. on July 19, 2011 at the Ely City Hall.

PRESENT: Council members Debeltz, Nikkola, Omerza, Salerno, Sheddy, Zupec and Mayor Skraba (7)

ABSENT: None

Motion by Salerno supported by Zupec to approve the minutes of July 5, 2011 Regular Meeting. Motion carried unanimously.

### **ADDITIONS TO AGENDA:**

- A. Addition: 5C – EACF Grant Cycle
- B. Addition: 9Aii - Street Obstruction Permits
- C. Addition: 14M – Blue Earth Environmental Partial Pay Estimate #1 - \$38,907.25
- D. Omission: 14L

Motion by Zupec supported by Debeltz to approve additions to agenda A –D as listed above. Motion carried unanimously.

### **MAYOR'S REPORT:**

Presentation of the Citizens of the Year Award was postponed until next regular council meeting on August 2, 2011.

Mayor Skraba welcomed everyone to attend the Lily Pad picnic in Whiteside Park on July 23, 2011.

Mayor Skraba announced the EACF Grant Cycle which awards money to individuals and organizations for their community projects. This is their 6<sup>th</sup> cycle and it will be open on August 1, 2011 and will close on September 1, 2011. Applications will be available in the City Clerk's office.

### **CONSENT AGENDA:**

- A. Schedule Department Head annual reviews immediately following council meetings as follows: August 2<sup>nd</sup> – John Lahtonen; August 16<sup>th</sup> – Harold Langowski (invite EUC); September 6<sup>th</sup> – Terri Boese; September 20<sup>th</sup> – Rachel Heinrich (invite Library Board).
- B. Joint Meeting with Morse Township – August 1<sup>st</sup> at 7:00pm at Morse Town Hall regarding Annexation

Motion by Debeltz supported by Salerno to approve consent agenda items A-B as listed above with a change. After discussion, Clerk Boese's review will be moved to August 2<sup>nd</sup> since her contract ends August 3<sup>rd</sup> and John Lahtonen's review will be on September 6<sup>th</sup>. Motion carried unanimously.

Frank Salerno congratulated Tom Coombe for receiving the Coach of the Year Award. Tom Coombe invited everyone to attend the State Legion Baseball Tournament which will be held in Ely on July 28<sup>th</sup> to July 30<sup>th</sup>. This is the 4<sup>th</sup> time since 1999 that Ely has hosted this event which involves eight teams and about 150 players and coaches.

### **REQUEST TO APPEAR:**

Ely Jaycees presented a check in the amount of \$3,441.42 to the City of Ely as a fireworks donation which they received by walking around on the parade route on July 4<sup>th</sup> collecting money in 6 firemen's boots.

Daniel Bliss gave a presentation on the findings from his dissertation research on economic development in Ely and the Iron Range.

### **COMMITTEE REPORTS**

Council member Debeltz spoke on the cemetery committee meeting which looked at Section 29 as a possible site for a columbarium.

Council member Nikkola stated the budget meeting is scheduled to meet on July 28, 2011. He also requested the council meeting tonight be closed after the EEDA meeting to discuss labor negotiation strategy.

Council member Omerza stated members of the Playground Task Force will be in the City of Ely's booth at the Blueberry Festival. The city will be selling items to raise money for the new playground equipment at Whiteside Park.

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Council member Sheddy reminded everyone that the Sanitation committee will be meeting on Thursday, July 21<sup>st</sup> at 10:00 a.m.

Mayor Skraba stated that at the projects meeting he attended there was a motion to increase the current infrastructure charge from \$5.00 to \$10.00. The council decided to add this item to the next study session agenda for further discussion.

Motion by Debeltz and supported by Salerno to authorize Mayor Skraba and Clerk Boese to sign the Airport Lease Agreement once the paperwork is finalized. Motion carried unanimously.

### DEPARTMENTAL REPORTS

Clerk/Treasurer

Clerk Boese presented information on the Street Obstruction Permit and related details on the map: pink areas indicated no street closings allowed due to being a major thoroughfare, a state highway, dead end street, hospital access or emergency route. The yellow areas showed the safe routes to schools and are not permitted to be closed during school hours or school events. The green areas are the existing closures: Little League and Tuesday night live at the Front Porch. The blue area is the Bulinski request for closure. Motion by Sheddy and supported by Salerno to approve by resolution combining the Excavation and Obstruction Permits into one application and charge \$100 fee with reservation to adjust the application form as needed. Roll Called: Debeltz-yes, Nikkola-yes, Omerza-yes, Salerno-yes, Sheddy-yes, Zupec-yes and Mayor Skraba-yes. Motion carried unanimously.

Clerk Boese reminded the council members to sign up for the City of Ely booth at the Blueberry Arts Festival on July 29<sup>th</sup> to 31<sup>st</sup>.

City Operations Director

EUC Consent Agenda Items-The following items of business were recommended for approval at the regular EUC meeting of Wednesday, July 13, 2011:

- A. Approved applying for a grant for safety equipment.
- B. Authorized Change Order #1 for the Water Plant Demolition for \$625.00.
- C. Approved fees for vendor electric usage at Whiteside Park charging \$20.00 per vendor for a onetime event and \$17.00 per month plus usage per vendor for recurring events.
- D. Approved payment of the Partial Pay Estimate #1 for the Water Plant Demolition for Blue Earth Environmental Company for \$38,907.25.

Motion by Nikkola supported by Zupec to approve EUC consent agenda items A-D as presented above. Motion carried unanimously.

Director Langowski stated construction will start on the re-roof of the community center in September, 2011.

Building Official

Schilling stated that Mayor Skraba was the first person in Ely to get a permit for installing a water heater in his home since he has been here. Also he reminded the public that the Rental Ordinance is in effect and landlords need to pickup applications for their rental licenses and inspections.

City Attorney

Attorney Klun presented the proposed Liquor Ordinance Change which incorporates the State Statute wording.

### **ORDINANCE NO. 247, 2<sup>nd</sup> Series**

**AN ORDINANCE OF THE CITY OF ELY, MINNESOTA, AMENDING THE ELY CITY CODE, CHAPTER 5, SECTIONS 5.01, NUMBER 20 AND 5.02 RELATED TO THE ALCOHOLIC BEVERAGES LICENSING AND REGULATIONS.**

THE COUNCIL OF THE CITY OF ELY DOES HEREBY ORDAIN:

#### **SEC. 5.01 DEFINITIONS**

20. "Restaurant" means an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus, where the main food course is served and consumed while seated at a

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~~single location served at tables to the general public~~, and having seating capacity for at least thirty guests ~~and not less than sixty percent (60%) of its gross sales attributable to the sale of food~~. To qualify as a restaurant as defined by this section, an establishment shall have a license from the State of Minnesota as required by Minn. Stat. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment.” An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served shall not be considered to be a restaurant for purposes of this ordinance unless it meets the definition of a “small establishment,” “medium establishment” or “large establishment.” Further, a “restaurant” ~~as defined~~ shall be required to terminate service of all alcoholic beverages at 1:00 a.m.; and, shall by 1:30 a.m. remove from all tables, counters, or any other locations in the customer areas of the restaurant, all beer, wine or other alcoholic beverage bottles, cans, glasses or other receptacles in which alcoholic beverages have been served. Further, said establishment shall not permit consumption of alcoholic beverages by anyone on the premises nor permit receptacles containing alcoholic beverages or open bottles or other containers anywhere on the premises after 1:30 a.m.

24. “3.2 percent malt liquor” 3.2 percent malt liquor” is malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight

**Section 5.02, APPLICATIONS AND LICENSES UNDER THIS CHAPTER - PROCEDURE AND ADMINISTRATION**

~~Subd. 8.C. No on-sale, or on-sale wine license shall be issued to a “restaurant” applicant unless the applicant makes a bona fide estimation that at least sixty percent of the gross receipts of the establishment during its first year of business will be attributable to the sale of food. No on-sale, or on-sale wine license shall be renewed for a “restaurant” applicant in which less than sixty percent of the gross sales receipts, as certified by a financial statement submitted by an independent certified public accountant, during the immediately preceding business year were attributable to the sale of food.~~

~~Subd. 9. Restaurant Reporting. In addition to the annual certified financial statement required in Section 5.02, Subd. 8C., every on-sale and on-sale wine “restaurant” licensee shall file with the City Clerk Treasurer, upon application for renewal of said license, financial reports, including Federal and State Tax Returns and other reporting, both sales and income, and on forms to be provided by the City, disclosing the amount of gross revenues produced, during the preceding period, which are attributable to the sale of liquor and sale of food. Such financial reports shall be subscribed and sworn to by the licensee, or in the case of a corporate licensee by a duly authorized agent or officer of the licensee. Failure to provide such reports or, willful falsification of any information to be provided in such reports, shall be grounds for revocation or suspension of said on-sale or on-sale wine license.~~

**SEC. 5.07.01 MALT LIQUOR SALES PERMITTED WITH WINE LICENSE.**

That any holder of a ~~non-intoxicating 3.2 percent~~ malt liquor license under Minnesota Statutes, Sec. 340A.403 and an on-sale wine license under Minnesota Statutes, Sec. 340A.404, Subd. 5(a) whose gross receipts are at least 60% attributable to the sale of food and who have provided dram shop insurance coverage as provided by law shall, without an additional license, pursuant to Minnesota Statutes, 340A. 404, Subd. 5(b) be permitted to sell intoxicating malt liquors at on-sale.

**SEC. 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: July 19, 2011

Second Reading:

Motion by Zupec and supported by Nikkola to approve the 1<sup>st</sup> Reading of the Liquor Ordinance 247, 2<sup>nd</sup> Series as presented above. Terms and conditions for approving a Sunday Liquor License will be determined at a later date. Roll Called: Debeltz-yes, Nikkola-yes, Omerza-yes, Salerno-yes, Sheddy-yes, Zupec-yes and Mayor Skraba-yes. Motion carried unanimously.

Attorney Klun discussed the Korpi Estate issue. The trustee for the Estate stated the interpretation of the language of the estate is: \$300,000 will be used for the perpetual maintenance of the graves of the three named individuals. It also states, “for the benefit of the Ely MN Cemetery”. The City of Ely will have to petition the court to read the

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Trust then make a decision as to the intent of the Trust. Attorney Klun will bring an estimate of court costs to the next regular meeting.

Attorney Klun addressed the sale of Outlot C which is 2.51 acres.

Motion by Omerza and supported by Debeltz to set the value of the property to \$2,108/acre and to remove the language "right of re-entry" since no building will be required to be built from the purchase agreement. Motion carried unanimously.

Attorney Klun reminded the council of the August 1, 2011 annexation meeting with the Town of Morse.

### COMMUNICATIONS:

- A. 6<sup>th</sup> Annual Ely Greenstone Juried Art Exhibit & Sale – Saturday, July 23, 2011-7-9pm at Miner's Dry
- B. Ely Community Resource Quarterly Report
- C. Twin Metals Open House – Friday, August 5 from 4:30pm-7:00pm

Motion by Zupec supported by Debeltz to approve posting the Twin Metals Open House as a special council meeting. Motion carried unanimously.

### CLAIMS FOR PAYMENT

- A. City and EUC claims for July, 2011 - \$236,367.14
- B. TKDA – Invoice #002011001725 Professional Services from May 29 to June 25, 2011 - \$7,544.91
- C. RLK – Invoice #6 – Ely City Engineer 2010-2011 - \$0.00
- D. RLK – Invoice #5 – Ely Water Treatment Plant Demolition - \$468.75
- E. RLK – Invoice #2 – 2011 Pattison Street Reconstruct - \$1,647.75
- F. RLK – Invoice #18 – Central Avenue Improvements - \$225.00
- G. ECR second quarter payment of \$3,140
- H. Minnesota Public Facilities Authority loan repayment on G.O. bonds \$213,173.35
- I. Walker, Giroux, & Hahne – Invoice#43127 for auditing services for 2010 - \$23,300.00
- J. UMD Center for Economic Development – Second Quarter Payment \$894.50
- K. Boundary Waters Bank – General Obligation Bond \$4,360.50
- L. Alex Air Apparatus, Inc – Quote #5221 (FEMA Grant) \$20,470.00 - DELETE
- M. Blue Earth Environmental Partial Pay Estimate #1 - \$38,907.25

Motion by Salerno supported by Zupec to approve claims for payment A – K as listed above with L being deleted and M added. Motion carried unanimously.

### OLD BUSINESS

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

### NEW BUSINESS

Motion by Debeltz supported by Zupec to approve Amici's request for a soft drink license pending the receipt of all required paperwork. Motion carried unanimously.

Motion by Omerza and supported by Salerno to recess the meeting at 7:21 p.m. until after EEDA meeting. Motion carried unanimously.

Meeting was reconvened at 7:30 p.m.

Meeting closed at 7:31 p.m. to discuss union negotiation strategy.

Meeting reopened at 7:59 p.m.

Motion by Nikkola and supported by Omerza to adjourn meeting at 7:59 p.m. Motion carried unanimously.

Terri Boese  
Clerk/Treasurer