

**Lake City Common Council
Regular Meeting
Monday, July 25, 2011
Council Chambers 6:30 p.m.
City Hall**

Members Present: Mayor Jerry M. Dunbar, Andru Peters, Mary Lou Waltman
Joel Beckman, Matt Powers, Phil Gartner, Mark Spence

Members Absent: None

Staff Present: City Administrator Ron Johnson, City Clerk Kari Schreck, Planning &
Community Director Rob Keehn, Public Works Director Scott Jensen,
City Attorney Karen England

Mayor Dunbar called the meeting to order at approximately 6:34 p.m. in the Council chambers of city hall with a quorum present.

Pledge of Allegiance

Mayor Dunbar led the Pledge of Allegiance.

Introductions

Introductions were made.

Disclose Conflicts and Relationships

None

Review and Adopt Agenda

Gartner requested that item 3d - Appoint ad hoc task force to review the current legal services agreement, and performance and hours thereof be pulled for separate action.

Motion Gartner, seconded Peters to adopt the agenda as amended. All ayes 7-0-0.

Recognize Megan Wenker from the Planning and Community Development department for 5 years of service.

Public Forum

None

Semi-annual Wabasha County commission update- Commissioner Dave Harms

Harms reported that the county is looking into a variety of shared services as a way to reduce costs to Wabasha as well as other counties. The county is also interested in exploring shared services with the City of Lake City as well. Frac/Silica mining is creating great interest and concern in Wabasha County. The County board will likely be considering a 1 year moratorium. Commissioner Jim Bryant of Goodhue County was in attendance as well to address the Frac/Silica mining. Both commissioners stated that the counties are in various stages of review. Goodhue County has all options open at this time, but are in the process of review.

New Business

Approve a Power Purchase Agreement with SMMPA relating to Uniform Statewide Contracts for Cogeneration and Small Power Production Facilities (under 40KW)

Through the Agreement, Lake City Utilities and SMMPA agree that Lake City Utilities will sell and SMMPA will buy all excess power from a Qualifying Facility (QF) like a solar PV or wind turbine. This allows Lake City Utilities to comply with MN PURPA rules that require the utility to buy all excess power from a Qualified Facility that wishes to sell excess power and also comply with the power sales contract with SMMPA requiring Lake City Utilities to buy all power from SMMPA. This agreement is necessary in the event that a customer of Lake City Utilities installs a qualifying facility to generate power and wishes to sell the excess power.

Motion Waltman, seconded Beckman to approve a Power Purchase Agreement with SMMPA relating to Uniform Statewide Contracts for Cogeneration and Small Power Production Facilities (under 40KW)

Roll call vote: Beckman, Spence, Dunbar, Waltman, Powers voting aye, Peters, Gartner voting nay, MOTION CARRIED 5-2-0.

Waive the statutory limits on municipal tort liability established by MN Statutes 466.04 and purchase excess liability coverage

The applicable State Statute, Liability Coverage Waiver Form and LMCIT Liability Coverage Annually, the City Council must approve whether or not to waive the monetary limits on municipal tort liability established by MN Statutes 466.04. Historically, the city has waived the limits. This year, the city's LMCIT insurance representative Bob Kemp provided additional information regarding the option not to waive the monetary limits. He suggested that City Attorney England review the options and provide a recommendation. After review, City Attorney England recommends continuing to waive the statutory limits. Mr. Kemp concurs.

Motion Beckman, seconded Peters, to waive the statutory tort liability limits and purchase excess liability coverage for the 2011-2012 renewal premium of the city's LMCIT policy.

Therefore, the city WAIVES the monetary limits on tort liability established by Minnesota Statutes 466.04 to the extent of the limits of the liability coverage obtained from LMCIT. All ayes 7-0-0.

Approve emergency gated crossing right of entry/release of liability with SOO LINE RAILROAD, dba Canadian Pacific

The Sportsman Drive railroad crossing is now considered a closed crossing. However, with approval of a right of entry/release of liability with Canadian Pacific emergency vehicles will be able to utilize the crossing when necessary. Use of the crossing requires contacting the train dispatch center upon opening and closing the gates. Staff will need procedures in place as well as key location for emergency personnel. A written policy detailing procedure for opening is requested from staff. Public Works director Jensen will work on this with the Chief of Police and City Attorney and report back to council.

Motion Peters, seconded Spence to approve emergency gated crossing right of entry/release of liability with SOO LINE RAILROAD, dba Canadian Pacific. All ayes 7-0-0.

Approve relocation of Federal Mogul loading dock and the related improvements to city ROW

Federal Mogul is planning to expand its production in the TP Liner section of the facility. The proposed production expansion would move into an area that is currently loading docks that are

accessed off of Jewell Ave. and 8th St. N. These docks do not function well due to their proximity to the intersection of those streets. Relocation would include a segment of drive over curb and space for truck traffic to pull off of 7th St. N.

Motion Gartner, seconded Powers, to approve relocation of Federal Mogul loading dock and the related improvements to city ROW. All ayes 7-0-0.

Discuss and/or adopt policy regarding animals in public buildings

At the April 11 regular Council meeting the following is noted in the minutes under Miscellaneous Discussion: “Gartner proposed a policy regarding animals in city buildings. He suggested a policy which he has drafted and with council consensus, would forward to City Attorney England for review. After discussion, it was agreed that Gartner would forward the drafted policy document to England for review.”

Motion Gartner to adopt the policy regarding animals in public buildings. Motion failed for lack of a second.

Approve plans and specifications and advertise for bids for 2011 street improvements

Plans and specifications have been prepared for the 2011 street improvements and the project is ready to advertise. For bidding purposes the project is separated into 3 phases. Phase 1 – Marina; Phase 2 – Monroe Street; Phase 3 – various city streets. Cost estimates for the various segments are attached. Once bids are received, Council has the option to accept any or all phases of the project. Engineering estimates are as follows: Marina \$166,000 (Marina budgeted \$125,000 and would need to use reserves of approximately \$41,000 with this estimate); Street Dept \$220,000 (Street Dept budgeted \$250,000 for mill and overlay which is within budget with this estimate); Monroe St. \$171,000 (2” mill & overlay with MSAH funds not currently budgeted but are available).

Motion Waltman, seconded Peters to approve plans and specifications and advertise for bids for 2011 street improvements. All ayes 7-0-0.

Consider adoption of resolution directing the City Attorney to investigate and report to the City Council, the procedures necessary and required for the termination of the SE MN Multi-County Housing Authority (SEMMCHRA) as the city’s HRA

Council member Gartner discussed the action(s) from the July 20, 2011 SEMMCHRA board meeting. The consideration of adoption of Resolution 11-038 is requested by Council Member Gartner.

Motion Beckman, seconded Waltman to direct the City Attorney to investigate and report to the City Council, the procedures necessary and required for the termination of the SE MN Multi-County Housing Authority (SEMMCHRA) as the city’s HRA as originally provided for in the Resolution of the City of Lake City dated November 9, 1993.

Roll call vote: Beckman, Peters, Spence, Waltman, Powers, Gartner voting aye, Dunbar voting nay. MOTION CARRIED 6-1-0.

Unfinished Business:

Continue public hearing to consider application for franchise for operating a cable communications system; Close hearing and adopt Resolution 11-036 regarding findings of fact with respect to HBC proposal for franchise

The purpose of the hearing is to consider application(s) for the grant of a franchise to operate a cable system and/or provide cable services in the City of Lake City. The hearing will focus generally on the sole application submitted and the qualifications of the applicant. No one from the public spoke, nor written comments submitted.

Motion Gartner, seconded Spence to close the public hearing. All ayes 7-0-0.

Motion Gartner seconded Spence to adopt Resolution 11-036 regarding findings of fact with respect to the proposal of Hiawatha Broadband Communications, Inc. for a Cable Communications franchise. All ayes 7-0-0.

Update on Ordinance No. 500, an Ordinance amending the City's shoreland regulations
Staff has submitted the ordinance to the Department of Natural Resources for review, but has heard nothing back from them at the time of writing. No further update is available at this time.

Underwood Substation update

Construction of the Underwood Substation is nearing substantial completion. All underground distribution and installation of the conductor with final grading work tentatively planned to begin July 21st or 22nd. Most of the work currently underway is that of Xcel Energy's. They are on or nearly on schedule for an end of July completion of their work. The inside of the substation work will fall into August for completion.

City facilities project update

Approve TRImension Designs' proposal for expanding the existing Library

The proposal was originally provided to the Council at its May 23rd meeting, and has not changed other than the addition of an evaluation to determine if a mezzanine reading room would be a possible option. It will allow the City to obtain construction estimates, and request proposals for construction if the Council approves further action at a later meeting.

The cost of the proposal is \$10,800, which was not included in the Library's 2011 budget. A potential source for funding would be the Capital Project Fund. SELCO may also offset a portion of the cost for the work. SELCO tentatively committed a \$1000.00 grant toward the project. Staff will need to follow through with the request.

Motion Gartner, seconded Spence to approve TRImension Designs' proposal for architectural services to expand the existing library. All Ayes 7-0-0.

Discuss code of conduct

At the 5-23-11 Council meeting, staff provided a code of conduct template from the League of MN Cities. Staff was subsequently directed to modify the template to be specific to the city of Lake City. A proposed modified code of conduct was briefly discussed at the 6-13-11 meeting, with Council members being asked to submit their comments to Administrator Johnson.

Administrator Johnson reviewed the comments received and a red-lined copy was provided to council for discussion and/or action. City Attorney England has reviewed and approved.

Motion Gartner, seconded Waltman to approve the City of Lake City Code of Conduct. All ayes 7-0-0.

Discuss policy regarding citizen complaints

No update at this time. A red-lined update was to be provided at the July 25th, meeting but has been delayed until the August 8th, 2011 meeting. Council members are encouraged to forward comments to City Administrator.

Council meeting procedures/ public forum agenda item update

No update at this time. A red-lined update was to be provided at the July 25th, meeting but has been delayed until the August 8th, 2011 meeting. Council members are encouraged to forward comments to City Administrator.

Beckman left the Chambers at 8:27 p.m.

Update on Board and Commission and liaison duties

City Administrator Johnson presented the City Code Chapter 30 Table of Contents. The various boards and commissions are reviewing and forwarding recommendations to City Administrator who will then review with the City Attorney once the documents have been forwarded.

Beckman returned to Chambers at 8:31 p.m.

Update on Revolving Loan Fund

A Revolving Loan Fund Committee meeting was held on July 14, 2011 as directed. At that meeting the committee reviewed the RLF program guidelines section on delinquent and default loans, the outstanding loans currently in default The NEST, Hopes Harvest, Lake City Candle Company, and the actions that have been taken to date to address these issues. In addition to these items the committee also discussed potentially contracting with an outside legal firm to handle RLF matters. This option was presented by the EDA who felt that it may be in the City's best interest to hire a firm that specializes in City RLFs if the work is non-retainer work. The City Attorney has identified two firms that do a considerable amount of work in this area of law which the EDA will review at their August meeting and prepare a recommendation to City Council based on their findings. The 9/1/10 legal services agreement with England Law Office states that under Non-retainer items "the following activities shall be explicitly excluded from the terms of this contract and the Law Firm shall not have any obligations to provide representation in any manner to the City regarding these functions: Representation of the City by the Attorney in civil litigation matters brought on behalf of or against the City, which in the opinion of the Attorney require specialized Legal Counsel."

Motion Beckman, seconded Waltman to authorize the City Attorney and City Administrator to retain a law firm as legal counsel for the City of Lake City to facilitate collection of the three default revolving fund loans. All ayes 7-0-0.

Waltman left the Chambers at 9:00 p.m.

Frac/silica sand mining

No further discussion. This will remain an agenda item.

Waltman returned to Chambers at 9:03 p.m.

Approve implementation of on-line bill pay and credit card acceptance through Payment Service Network

Implementing an on-line payment processing and credit card acceptance program was discussed at the 8-9-10 and the 9-13-10 Capital and Finance Committee meetings, the 8-25-10 and the 10-5-10 Personnel Committee meetings and the 10-11-10 Council meeting. Information was given to answer questions that were raised during the meetings. Departments that would be part of the process were included in the discussion. Payment Service Network was selected as the most compatible product as it contained all of the services requested and interfaces with our current software.

Motion Gartner, seconded Waltman, to approve streamlining on-line utility billing; utility receipting and accepting of credit cards using Payment Service Network with a maximum transaction amount of \$500.00. All ayes 7-0-0.

Powers left Chambers at 9:10 p.m

3. Consent Agenda:

- a. Approve expense claims
- b. Approve July 11, 2011 Council meeting minutes
- c. Approve certificates of payments #6 & #7 to MP Systems Inc. for Underwood Substation construction for \$774,939.60 & \$76755.99 respectively
- d. ~~Appoint ad hoc task to review the current legal services agreement, and performance and hours thereof~~
- e. Confirm the appointment of Rev David Badgley to the Public Safety Board
- f. Confirm the appointment of Kay Lastine to the Library Board
- g. Confirm the appointment of Larry Flater to the Street/Parks Commission

Motion Spence, seconded Waltman to approve the consent agenda as presented. All ayes 6-0-0.

Powers returned to Chambers at 9:13 p.m.

Appoint ad hoc task to review the current legal services agreement, and performance and hours thereof

This item was pulled from the consent agenda by Gartner. He questioned why this was being done when there is a three year contract in place. Dunbar explained that after a year into the contract it would be good housekeeping to review where both sides are at.

Motion Waltman, seconded Powers to appoint ad hoc task force to review the current legal services agreement, and performance and hours thereof. All ayes 7-0-0.

Miscellaneous Discussion

Dunbar reminded all that National Night Out is August 2.

The city picnic for all board and commission members is August 30, at Hok –Si-La Park.

City Administrator Johnson was recognized for his ICMA Credentialed Manager recertification.

Informational Reports:

As presented.

Future Meeting Dates:

As presented.

Motion Waltman, second Powers to adjourn at 9:25 p.m. All ayes 7-0-0.

Jerry M. Dunbar, Mayor

ATTEST:

Kari Schreck, City Clerk