

**CITY OF BURNSVILLE  
WORKSESSION MINUTES  
APRIL 13, 2010**

The City Council of the City of Burnsville met for a Worksession at the Burnsville City Hall, 100 Civic Center Parkway, Burnsville, Minnesota on the 13<sup>th</sup> day of April, 2010.

The meeting was called to order at 6:30 p.m. by Mayor Kautz.

Council Present: *C. Crichton, D. Gustafson, E. Kautz, D. Kealey, M. Sherry*

Council Absent: *None*

Staff Present: *C. Ebeling, T. Omdal, T. Hansen, M. Brooks, J. Jamnik, B. Osmundson, T. Zink, S. Nienhaus*

Others Present: *J. Gessner, D. VonHelden, D. Spiros, E. Delmoro, R. VanderLaan, J. Flemming, J. Elbaum, S. Peters, S. Kauppi, K. Jule, W. Huelskoetter, A. Burrill, B. Rixmann, B. Luth*

**ITEM 1. MNDOT PRESENTATION ON MNPASS PROJECT**

Bud Osmundson, Public Works Director/City Engineer, introduced Kevin Jule, SRF Consulting, Sheila Kauppi, MnDOT Project Manager, who gave an update on the MnPASS project. This project is an extension of the north bound HOV lane on I-35W from Burnsville Parkway to the 35W/35E split. This project will also convert the existing HOV lane to a HOT lane which can be used by paying single occupancy vehicles.

Since the last report, this project has been divided into two separate projects. First, the west side noise wall from McAndrews Rd to Burnsville Parkway. This project will be let this summer and hopefully completed this winter. The following year, the remainder of the project will proceed, the North bound HOV lane and the noise wall from McAndrews Rd to Burnsville Parkway on east side and drainage infrastructure. Also, MnDOT will be proceeding with eminent domain process for a ponding project in the NE Quadrant of McAndrews Road and I-35W.

Project Benefits:

- Residents in the South Metro Area will see improved traffic flow and reduced congestion and travel times through the I-35W corridor.
- Drivers who use the MnPASS Express Lane will experience a safer, faster, and more reliable commute
- Additional capacity on northbound I-35W will improve traffic distribution on local roadways
- Proposed noise barriers will reduce traffic noise for some Burnsville residents along I-35W
- Proposed stormwater treatment ponds will improve drainage and water quality in project area

Project Design Includes:

- Extension of the MnPASS express lane on northbound I-35W from Southcross Drive to Burnsville Parkway
- Roadway construction inside the existing I-35W median; city property will be acquired for stormwater ponding at northeast quadrant of McAndrews Rd and I-35W
- Urban drainage system – curb and gutter system with concrete median barrier
- 20-foot high noise barriers on east and west sides of I-35W between McAndrews Rd and Burnsville Parkway

Schedule

- July 2010 letting for the west side noise wall, with construction completed this winter.
- February 2011 letting for the remainder of the project, fully constructed by summer 2011.

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**ITEM 1. MNDOT PRESENTATION ON MNPASS PROJECT (continued)**

When is Municipal Consent Needed?

- New Access – project will not change existing access to I-35W
- Right of Way Acquisition – project will require acquisition of one City-owned parcel at the northeast quadrant of I-35W and McAndrews Road for construction of stormwater treatment pond
- Increase in Roadway Capacity – project will increase roadway capacity by adding a MnPASS Express Lane on northbound I-35W

Cost Participation

- City cost participation is not anticipated at this time

Council discussed median barriers and why the lane extension is not south bound as well as north bound. Mr. Jule reported that this option was looked at hard but demand peaks are in the morning and the infrastructure required to make this an effective MnPASS lane is extensive because of the 35W/35E merge in this area.

Mayor Kautz noted that anyone can use the MnPASS lane for free if there's more than one person in the car. There's no age limit on passengers, so infants would qualify but pets do not count. For single drivers to use the MnPASS lane during peak/pay periods, they must have a MnPASS transponder. A link to MnPASS is available on the city's website for more information.

Mr. Osmundson reported that the Municipal Consent public hearing is scheduled for the April 20, 2010 Regular Council meeting.

**ITEM 2. PERFORMING ARTS CENTER UPDATE**

Steve Peters, VenuWorks President, introduced Jon Elbaum, the Performing Arts Center's new Executive Director, Jon Elbaum, who started on April 5th, and presented their assessment of how the theater is performing, what their plans are for making it successful in the future.

Introducing Jon Elbaum – Executive Director

- Grinnell College, Economics
- University of Colorado, MBA
- Denver Center for Performing Arts
- Bridge View Center, Ottumwa, IA

VenuWorks Report to City Council

- Setting the Stage: "Times were tough..."
- Locally:
  - The Children's Theatre reduced the number of weekly performances in 2009-2010
  - The Gurthrie initiated significant budget cuts
  - Chanhassen Dinner Theatre put up for sale
- BPAC by the numbers:
 

|                      | <u>Pro Forma</u> | <u>City Budget</u> | <u>Actual</u>    |
|----------------------|------------------|--------------------|------------------|
| ○ Subsidy required   | \$346,218        | \$265,477          | \$533,599        |
| ○ Adjustments        |                  |                    |                  |
| ▪ Opening Expenses   |                  |                    | \$ 80,000        |
| ▪ Sponsorship/Dvlpmt |                  |                    | <u>\$100,000</u> |
| ○ Adjusted Actual    |                  |                    | \$353,599        |
- Attendance
  - Budgeted Attendance: 51,300
  - Actual Attendance: 58,296

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**ITEM 2. PERFORMING ARTS CENTER UPDATE (continued)**

- VenuWorks Management Fee \$120,000
  - Investment in Events (\$ 40,000)
  - Financing for Marquee \$ 32,600
- BPAC Successes
  - Spectacular facility, fully equipped
  - Grand Opening
  - Financial performance in a tough economy
  - Received invaluable support from Burnsville CVB
  - Attendance exceeded expectation
    - Broad range of programming offered
    - Art gallery a huge success
    - Envision Academy of the Arts
- Areas Requiring Improvement
  - Customer Service
  - Administrative procedures (with customized accounting manual)
  - Better integration with City counterparts
  - More community involvement
  - Make BPAC less expensive to use
  - More events, more activities, more revenue
- Moving Forward in 2010
  - Realign administrative practices under new Executive Director Jon Elbaum and new Business Manager Jean Martinson
    - New accounting manual designed specifically for BPAC
    - Work with new BPAC Advisory Board
    - Monthly update to the Board
    - Periodic reports to Council
  - Plan the Work and Work the Plan
    - Progress report on 2010 Goals and Action Plan
    - Increased emphasis on grant writing
  - Greater Community Involvement and Access
    - Reducing user expenses
    - Allowing more volunteer support services
      - Already in force for Chameleon Theatre Circle
    - Develop community partnerships
  - Take customer service to a new level
    - Answer the phone
    - Detailed event budgeting in advance with users – no surprises
    - Professional event execution
    - Post-event critique with event planners
- 2010 BPAC Programming 1<sup>st</sup> Quarter Events
  - 10 event days in Main Hall
  - 26 event days in Black Box
  - 39 event days in Meetings/Banquets
  - 65 event days in Art Gallery
- Prime Tenants
  - The Chameleon Theatre Circle
  - Dakota Valley Symphony
  - Twin Cities Ballet
- 2010 Program Highlights
  - Chanhassen Dinner Theatre – ISD 191 summer Theatre Camp
  - Art Gallery

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**ITEM 2. PERFORMING ARTS CENTER UPDATE (continued)**

- VenuWorks in 2010
  - Committed to BPAC success
    - Waived annual fee increase
    - Carried significant transition expenses
    - Transparent and accountable
  - On track to meet or exceed budget
  - Reaching out to the entire community
  - Dedicated to providing outstanding experiences

Council asked about current marketing and use of social media. Tammy Koolbeck, Venuworks Vice President, explained that the BPAC is part of national coop advertising, have a very active Facebook page, and other media marketing through Ticketmaster. Also, have regular meetings with promoters.

Councilmember Kealey noted local promotion efforts for comedy acts from Scott Hanson, comedy promoter, and suggested VenuWorks research the possibility of working with him.

**ITEM 3. PERFORMING ARTS CENTER ADVISORY BOARD**

Councilmember Sherry presented a draft policy for the Performing Arts Center (PAC) Advisory Board including a mission statement for the board. Council discussed whether the statement should specify only Burnsville or the south metro region, as this facility was built with the intent to draw customers and acts from outside the city. Councilmember Kealey suggested a change to “attracting customers” from the south metro region and surrounding areas.

Councilmember Crichton suggested that the Code of Conduct be incorporated in a policy to govern all City advisory boards and commissions. Council discussed whether to include direction regarding the Executive Director or whether it should in a separate policy or only in the management contract. Councilmember Sherry replied that the draft policy can be revised to clearly indicate that we are expecting the advisory board to *oversee* the ‘executive limitations.’ This critical oversight may improve operations and give direction to Council. Councilmember Kealey noted that these board members will bring new perspectives and may have additional ideas regarding directions the board should pursue.

Council discussed timing of the draft policy in comparison with appointments to the PAC Advisory Board. Council agreed that more time will be needed to reach a final draft. Council consensus to schedule a **Special Worksession on Tuesday, April 20, 2010 at 4:00 p.m.** to continue a more in-depth discussion on the PAC Advisory Board Policy.

**ITEM 3. PAWN SHOP/RESELLER ORDINANCE**

Councilmember Kealey recused himself from participating in this agenda item after disclosing that he is a business owner (Replay Music Movies Games) that may be affected by the proposed ordinance revisions.

Tom Hansen, Deputy City Manager/COO, and Eric Werner, Police Captain, presented information on a draft Pawn Shop/Reseller Ordinance.

**Purpose & History**

- Purpose: Devise a regulatory framework that provides a “level playing field” for local property reselling businesses and a fair reporting system on regulated transactions

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**ITEM 3. PAWN SHOP/RESELLER ORDINANCE (continued)**

- History:
  - 4 Worksessions (6/9 – 8/11 – 10/13 – 2/9)
  - 68 businesses contacted/visited/phoned/emailed/survey
  - October Meeting (seven attendees)
  - Meeting with EDC (3/31/10)
  - Made changes to simplify regulation
    - Changed regulated property
    - Excluded trade ups
    - Excluded donated property
    - Excluded repawned property
  - Result: likely # of affected properties: 11

Proposed Revision Based on Three Assumptions:

1. Law enforcement has legitimate need to regulate property resellers
2. Regulation should apply fairly to like businesses
3. Regulated property should be rationally regulated to its value and likelihood of being stolen

Old and New Approaches

- Old Approach:
  - License and regulate pawn shop transactions only.
  - Charge a transaction fee on every transaction.
  - Require detailed daily reporting.
- New Approach
  - License and regulate property resellers only in the categories of property likely to be stolen and resold.

Resold Property Proposed to be Regulated:

1. Jewelry, watches and precious metals
2. Audio visual gear (including cameras)
3. Office/computer equipment
4. Tools
5. Firearms

Effects of Proposed Regulation

- No effect if reselling business does not deal in regulated property
- If business does deal in regulated property AND has FEWER than 200 transactions\* annually:
  - Register with the City
  - Minimum documentation and reporting requirement
  - 30-day hold on regulated property
    - \* EDC recommends 1,000 transactions
- If business does deal in regulated property AND has MORE than 200 transactions\* annually:
  - License from the City
  - Electronic documentation and reporting requirements
  - Transaction fee
  - 30-day hold on regulated property
    - \* EDC recommends 1,000 transactions

Issues

- **Licensees vs. Registrants**
  - The Draft Ordinance: 200 Transactions
  - EDC Recommendation: 1,000 Transactions
    - Effect of EDC recommendation would be to reduce the number of licenses to two businesses

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**ITEM 3. PAWN SHOP/RESELLER ORDINANCE (continued)**

Daron VonHelden, Chamber of Commerce President, presented some amendments to the proposed ordinance from a reseller's group meeting. This group wanted to ensure the City Council that they are making diligent efforts to ensure stolen property is not traded and acquire appropriate identification from sellers to be good partners with law enforcement. However, additional fees will hurt their businesses in this economy.

Bill Luth, Asset Marketing, voiced concerns with the requirements regarding collection of data because their business is national/international. Staff noted a proposed amendment for Council consideration to exempt transactions conducted as part of a direct marketing business, where purchases are made outside the City and resold to persons or organizations outside the City.

Issues – continued

- **Automated Reporting Systems (ARS)** - An automated reporting system greatly improves property tracking and reseller compliance. It costs \$\$ and does place some burden on resellers to comply. Police believe it is vital to have this capacity.
  - Automated Pawn System (currently in use)
  - Leads on Line (web based on-line national system)
  - Extract (Canadian based firm currently unavailable)
  - Bizwatch (regional system not in use in the midwest)
  - Staff is not aware of other systems available to us
  - Comparison of Automated Reporting System (ARS)
- **APS**
  - Regional Data Sharing
  - Four Tier Security (Minnesota Environment Considered)
    - Protects Government/ Business Data
  - Excellent Software Functionality
  - Cost – Transaction/Customer Fee Based
- **LEEDS On-Line**
  - Data Isolated from MN LE Agencies
  - Single Tier Security
  - Good Software Functionality
  - Cost – # Sworn Officers Based and Service Options. Municipality Responsible.
  - Automated Reporting System
- ❖ EDC Recommendation: APS
- ❖ Staff Recommendation: APS and engage LOL in product test and press APS to reduce fee
- **Holding Periods** - Holding periods provide Police with time to process stolen property complaints before property is resold.
  - ❖ EDC Recommendation: Keep at 30 days
- **Fees** – A variety of fees are charged now for Burnsville's one licensed reseller:
  - Annual license (\$10,000)
  - Investigation (\$3,000)
  - Transaction (\$2.50/transaction – APS)
  - Backgrounds (\$250)
    - City Council determines fee levels based on a finance policy comparative to “market cities.”
    - Goal: upper quartile of market cities

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**ITEM 3. PAWN SHOP/RESELLER ORDINANCE (continued)**

- ❖ The EDC recommends the following fees:
  - Annual Licensing \$1,000
  - Annual Registrant \$50
  - Investigation \$500 (or actual cost not to exceed \$2,000)
  - Transaction \$3.25 per (after 100 transactions)

Council discussed the pawn fee schedule of comparative cities and requested a copy of Bloomington's Reseller Ordinance. Captain Werner reported that the replacement value of recovered property was approximately \$60,000, but explained that this ordinance is less about recovering stolen property and more about being a successful crime deterrent and how this information is a tool to help solve other more serious crimes.

Brad Rixmann, PawnAmerica, stated that many of the comparative cities shown in the fee schedule do not have pawn shops and suggested the Council review the fee schedule of larger outlying cities, such as Duluth and St. Cloud. Mr. Rixmann also disagreed with Captain Werner's statistics regarding confiscated property values.

Council discussed the holding period, related statutes, and the burden created for businesses that would need to have a significant holding storage space. Dan Kealey, representing Replay Music Movies Games, suggested Council consider a 7-10 day holding period as some cities have done. Council agreed that they were open to a reduced holding period but requested Captain Werner check with these cities to find out if there are significant issues related to the shorter 7-10 day holding period.

Council consensus to move forward with the draft ordinance incorporating appropriate amendments from the draft distributed by Mr. Rixmann and Mr. VonHelden. The ordinance should reflect a 'Best Practices' approach with an initial \$100 license fee and no transaction fees until such time as there is a violations of the ordinance.

**ITEM 3. ELECTION UPDATE**

Tina Zink, Elections/Licensing Coordinator, presented an update on the 2010 Election, including recent legislation changes to election laws:

**2010 Changes in the Law**

- State Primary Move
  - August 10 – Second Tuesday of August
  - Filing Period: May 18 – June 1
  - Absentee Balloting Period: June 25 – Aug 9 (46 days prior)
    - Absentee Ballot Board can begin to accept/reject 46 days prior
  - State General Election will remain the same (Nov. 2)
  - Non-Commercial Signs Exemption – June 25
    - *All noncommercial signs of any SIZE may be posted in any NUMBER in any municipality, whether or not the municipality has an ordinance that regulates the size or number of noncommercial signs-from 46 days before the Primary in a state general election until 10 days following the State General Election.*
    - Joel Jamnik, City Attorney, noted that the restrictions regarding where the signs can be placed are the same - signs may only be placed where the person has the right or permission to, not in public rights of way.

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**ITEM 3. ELECTION UPDATE (continued)**

- New laws pertaining to Absentee balloting
  - New required information from Absentee Ballot applicants
  - Changes in Absentee Ballot envelopes to accommodate new information
  - Must use State Voter Registration System (SVRS) to be delegated as an Absentee Ballot location
  - Must record Absentee Ballots sent, received, accepted/rejected in SVRS
  - Must use SVRS bar-coded labeling
  - Rejected Absentee Ballot notice to voters within 6-10 weeks after election.
  - Must have Absentee Ballot Board (rules regulating process)
  - Must canvass on 3<sup>rd</sup> day after Primary and between 3<sup>rd</sup> and 10<sup>th</sup> day after General Elections
- New Laws Pertaining to Elections
  - Precinct Summary Statements require additional information including number of unused ballots
  - Return log must include # of ballots delivered to precinct and number returned, discrepancies noted
  - Voter absent from work for time necessary to vote
  - At voter's discretion, may use writing surface other than a booth
  - Sample ballots published & posted 2 weeks prior

**2010 Changes - Rules**

- Rule 8210 – Absentee
  - Return Envelope Certifications changed
  - Instructions changed; separate primary instructions
  - New Election Judge duties when examining return envelopes
- Rule 8220 – Voting Systems
  - Equipment certifications
  - Test decks must include ballots marked by AutoMark
- Rule 8230 – Op Scan
  - Use of stickers prohibited on ballot (i.e. write-ins)
  - Election Judges may straighten or remove ballots at any time
- Rule 8235 – Recounts (Process)
- Rule 8240 – Training (Students)
- Rule 8250 – Ballots (Housekeeping)

**2010 Changes in Polling Precincts**

- Precinct 11
  - Previously Rejoice Church, 14020 Co. Rd. 5
  - Now Crossroads Church, 14300 Burnsville Pkwy.
    - Moved due to ADA requirements that were hard to meet in previous location
- Precinct 14
  - Previously City Maintenance Facility
  - Now Echo Park Elementary School, 14100 Co. Rd. 11
    - Discussed with District #196 during last school board election and agreed upon
- Precinct 12
  - Previously Dakota County Library, Burnhaven Dr.
  - Now Grace United Methodist Church, 15309 Maple Island Rd.
    - Library will be closed for remodeling in August-permanently moved location-will utilize Library in 2012 election for Precinct 17

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**ITEM 3. ELECTION UPDATE (continued)**

Communication Efforts for Changes

- The following methods will be utilized to get the information out regarding all the changes to the law and to the precincts:
  - Website
  - Press Releases
  - Burnsville Newsletter
  - Cable
  - Facebook
  - Bill Stuffers
  - Election Hotline
  - Bulletin TV
- Dakota County will be sending out new voter's cards (notices) to the registered voters of the precincts that were changed in June

Council requested copies of the new date information shown on the first slide and thanked Ms. Zink for the election update.

**ITEM 4. ROUNDTABLE**

➤ **Discuss Budget Open House Concept**

Staff reported on the process used in Eagan for a Budget Open House. This is an additional way to disseminate information to our residents. Council consensus to establish a similar Budget Open House this year. Council also requested more budget information from staff during the 2011 Budget process, such as an executive summary from department heads.

➤ **Schedule Special Worksessions**

Staff requested whether Council would like to consider an additional Worksession on Council discussed setting Special Worksessions for Commissions and PAC Advisory Board interviews. Council consensus to set a **Special Worksession on Thursday evening, May 20, 2010** for Commission interviews and **Tuesday evening, May 25, 2010 for PAC Advisory Board interviews**, continuing on Wednesday, May 26, 2010 if necessary.

➤ **Reports on Advisory Boards and External Organizations**

Councilmember Kealey – Nothing to report

Councilmember Gustafson

- I-35W Solutions meets Thursday,
  - Working on Legislative updates for 2011
  -
- Transportation Advisory Board meets
  - MnDOT received 35M for the 169 & 494 project
- Burnsville CVB meets Thursday morning
  - Hotel General Managers meeting Thursday at Noon.
- Art & All that Jazz moving along well

## WORKSESSION MINUTES

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### ITEM 5. ROUNDTABLE (continued)

#### Councilmember Sherry

- Heart of the City (HOC) ½ Marathon
  - Changed name from Tender Hearts ½ Marathon
  - Will not begin or end in the HOC due to Burnsville Parkway reconstruction
  - Saturday, June 5<sup>th</sup> at 7:30am
  - Safe Haven website has more information
- Burnsville Community Foundation
  - Nothing new
  - Working with BA191 on flag installation and fundraising
- Dakota Communication Center Board of Directors
  - Search for new Executive Director continues
  - Dispatch mix up regarding mutual aid call is being addressed

#### Councilmember Crichton

- Fire Muster Board
  - Fire Muster is scheduled for the weekend after labor day
- Multi-Family Housing meets quarterly
- Cedar Avenue Corridor Study Group

#### Mayor Kautz

- Municipal Legislative Commission meets quarterly - Next meeting in May
- Regional Council of Mayors
  - Guiding Principles Report from Brookings Institute
  - Itasca Jobs Task Force
    - Decision to create an entity that focuses on economic development in our region
    - Education connection – ensure we have sufficient intellectual capital
    - Gathering data to determine regional competitiveness

The meeting was adjourned at 10:06 p.m.

Respectfully submitted,

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Macheal Brooks, City Clerk

Approved by the City Council of the City of Burnsville this 20<sup>th</sup> day of April, 2010.

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Elizabeth B. Kautz, Mayor