

City of Battle Lake - City Council Minutes– March 28, 2017
HEARING WITH MnDOT ON RIGHT-OF-WAY RESTRICTIONS

The Battle Lake City Council met in regular session on Tuesday, March 28, 2017 at 7:00 p.m. at the Battle Lake City Hall. Mayor, Gene Kelm called the meeting to order at 7:00 p.m. with Council members Ryan Christensen, Don Maslow, John A. Salvevold and Marjorie Quammen present Also present were City Attorney, JJ Cline; City Clerk/Treasurer, Val Martin; Police Chief, Kent Kortlever; and Public Works Superintendent, Steve Seufert. Staff members from MnDOT and other visitors were also in attendance.

The Pledge of Allegiance was recited. Christensen moved to approve the agenda. Maslow seconded. MCU

A quote was received from Water Tower Clean and Coat Inc. to clean the exterior of the water tower for \$4,650. Christensen moved to approve the quote and do the work as presented. Quammen seconded. MCU

Water Tower
Cleaning

Seufert presented a quote for extension of the gas main. Quammen moved to approve the extension as presented contingent on getting the easement needed from a property owner. Maslow seconded. MCU

Gas Main
Extension

A request was made to extend the adverting for part-time personnel until the end of April as we have only received one application for the 3 positions. Salvevold moved to approve. Christensen seconded. MCU

LQ Part-time
personnel

Maslow moved to approve the claims list. Salvevold seconded. MCU

Claims list

The hearing was opened for the discussion with MnDOT on the Right-of-Way regulations.

Cline gave a brief overview of the project that was completed in 2013:

MnDOT
ROW

- The City signed a cooperative agreement with MnDOT.
- The contract addressed a Limited Use Permit (LUP) for the right-of-way.
- The LUP was not executed in 2013 when the project was complete.
- A number of concerns were brought to MnDOT's attention last summer as more activity and "misuse" of the amenity zone was continually happening.
- From that time and moving forward, the City has been working on the LUP with MnDOT and trying to address a number of concerns that are not beneficial to the City.

Jeremy Flatau from MnDOT provided additional information:

- Statutes have been in place for many years but newer standards have recently been developing including ADA regulations, multi-access use and sidewalk grades.
- The state needs to follow Federal regulations as they continue to look more closely at what is being regulated at the local level.
- Battle Lake is one of the first cities in the state that have worked with MnDOT and to have a cooperative agreement.
- We have to remember that the area is a right-of-way and primary use is for transportation. It's for everyone's use.
- A list of statutes was discussed and presented to the visitors.
- MnDOT has to prove to the federal government that the right-of-way is utilized for a public purpose.
- Priority is on safety.
- Flatau provided a possible list of those items that would be allowed with the LUP. These items include benches, tables, flower planters, garbage containers, etc. These items can only be placed by the City and approved by MnDOT. No commercial activity will be allowed in the right-of-way.

A number of questions and comments were addressed:

- The sidewalks consist of:
 - The first 6-7 feet out from the building is the handicapped zone.
 - The exposed aggregate area is what is known as the "amenity zone."
 - The outer area is considered multi-use for pedestrians and bicyclists.
- Only secure items will be allowed due to liability. No items that can be easily moved will be allowed.

- Enforcement will be through MnDOT but they hope to work with the City and want the City to adhere to the LUP.
- Can a business sponsor a bench? Possibly with a flower pot incorporated? Possibly – details will need to be worked through with the City and MnDOT.
- Concerns were raised about the historical use of the sidewalks for businesses and how it is important to their business model. With the short season, taking away some of these small, free, options can have an effect on their business. Government creating issues for small businesses is not their job. MnDOT was understanding of the hardships it may cause but the regulations will need to be followed and MnDOT will work closely with the City on the details.
- Can the City sell space on the light poles for business advertising on flags? Again, no advertising or commercial activity will be allowed.
- What about banners and/or flags on the building. Flatau said this may be allowed and will check on height requirements and if there is a need for a permit.
- What about the parade and using chairs? Crazy days? Other special events? MnDOT is working on permits for special events. We already work with them on the parade each year.
- People should remember that not all Cities have trunk highways running through their Main Street and those that do may not have a right of way that runs up to each store front. Each community is different.
- A suggestion to the businesses – consider using other advertising devices such as a lighted “Open” sign in their window.
- Chuck Reeve told the council that his wife fell after the wind lifted one of the sandwich boards on the Main Street. He is very concerned about safety and felt he was lucky that his wife did not have more injuries after her fall. She ended up with a black eye, several bruises and a possible concussion. He felt allowing these types of things in the amenity zone increased everyone’s liability exposure.
- What about the pop machine that is in the right-of-way? MnDOT is aware and working on it.
- Staff from MnDOT stated that committees made up of MnDOT staff, legislators, counties and cities representation have been meeting to discuss proposed changes to legislation for a compromised use in the right-of-way.
- A question was asked about the wooden flower planters and if they would be allowed. Martin will send a picture of them to MnDOT to start the discussion.
- MnDOT suggested a comprehensive plan by the City showing what they would like to see in the amenity zone. Once that was presented, it would take 2 to 3 weeks to get through the approval process.
- Someone suggested the language in the LUP say “items to include but not limited to. . .”

It was the consensus of the council to have the street committee come up with some recommendations for items to include in the amenity zone and at some point, involve the businesses in the discussion. The council decided to have another public hearing once the LUP has been completed. Cline informed the council that he, Martin, Seufert and Kortlever participated in a conference call with MnDOT where a number of issues with the LUP were discussed. Cline will continue to work with MnDOT’s attorney on some changes.

Cline also stated that it is difficult to ask the City to enforce the regulations in the right-of-way as MnDOT is the road authority, not the City. An addition to the first contract may need to be put in place to address enforcement and other items of concern.

Adjourn at 8:40 p.m.

Valerie J. Martin
Clerk/Treasurer