

**BELLE PLAINE CITY COUNCIL
REGULAR SESSION
FEBRUARY 6, 2017**

1. PLEDGE OF ALLEGIANCE.

Mayor Christopher Meyer led those present in the Pledge of Allegiance.

2. CALL TO ORDER. 2.1. Roll Call.

The Belle Plaine City Council met in Regular Session on Monday, February 6, 2017 at 6:30 p.m. in the council chambers of City Hall, 218 North Meridian Street, Belle Plaine, MN. Mayor Christopher Meyer called the meeting to order with Councilmembers Paul Chard, Ben Stier, Cary Coop, and Theresa McDaniel present.

Also present were City Administrator Mike Votca, Finance Director Dawn Meyer, Community Development Director Cynthia Smith Strack, Public Works Superintendent Al Fahey, City Engineer Joe Duncan, Police Chief Tom Stolee and City Attorney Bob Vose. Wanda Savage served as the video recording operator.

3. APPROVAL OF AGENDA.

Mayor Meyer requested that business item 8.2. Veteran's Park Issue, be addressed immediately following action on the consent agenda.

MOTION by Mayor Meyer, second by Councilmember Coop, to approve the agenda with business item 8.2. Veteran's Park Issue, addressed immediately following action on the consent agenda. ALL VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of January 17, 2017.

4.2. Work Session Minutes of January 17, 2017.

4.3. Closed Personnel Committee Minutes of January 17, 2017.

4.4. Resolution 17-018 Close Community Recreation Fund 202 and Transfer Remaining Funds to Capital Fund 402.

4.5. Resolution 17-019 Accept Resignation of Park Board Member Kathy Joerg and Appointing Alternate Ryan Herrmann as Member.

4.6. Approving Large Assembly Permit for St. Patrick's Day Celebration on March 18, 2017.

4.7. Approving 3.2% On Sale Intoxicating Liquor License for St. John Lutheran Church Fundraising Event on October 15, 2017.

MOTION by Councilmember Coop, second by Councilmember Chard, to approve the consent agenda as follows: 4.1. Regular Session Minutes of January 17, 2017, 4.2. Work Session Minutes of January 17, 2017, 4.3. Closed Personnel Committee Minutes of January 17, 2017, 4.4. Resolution 17-018 Close Community Recreation Fund 202 and Transfer Remaining Funds to Capital Fund 402, 4.5. Resolution 17-019 Accept Resignation of Park Board Member Kathy Joerg and Appointing Alternate Ryan Herrmann as Member, 4.6. Approving Large Assembly Permit for St. Patrick's Day Celebration on March 18, 2017, and 4.7. Approving 3.2% On Sale Intoxicating Liquor License for St. John Lutheran Church Fundraising Event on October 15, 2017. ALL VOTED AYE. MOTION CARRIED.

7.0. BUSINESS ITEM VETERANS PARK.

1. Andy Parrish, Veterans Park Issue.

The Council Chambers were filled with people as a result of this issue.

City Administrator Votca explained that a concept plan for Veterans Park that included flags, memorials, and helicopter was approved by the City Council on August 3, 2009. In August 2016, the Belle Plaine Police Department received a complaint from a resident that a Latin cross was displayed in Veterans Park appeared to be illegal. The City responded by indicating the cross was only a minor part of the overall focus of Veterans Park, therefore determined the cross would remain as part of the monument setting. A letter was received from the Freedom from Religion organization requesting the cross be removed, stating it was unconstitutional. The Mayor and City Administrator met with members of the Belle Plaine Veterans Club to advise them of the situation. The Veterans group offered to remove the cross from the memorial statue.

Mayor Meyer explained that there had been no communication with the Belle Plaine Veterans group for a period of approximately six months on this issue. He apologized for the lack of communication on behalf of the City. Because of threatened lawsuits and thus financial obligations, Mayor Meyer asked City Attorney Vose to speak on this issue.

City Attorney Vose provided information related to the symbol in Veterans Park. A letter dated February 3, 2017 was received from Rebecca Markert, Attorney with Freedom from Religion Foundation. She requests the City refrain from adopting a limited public forum policy that would allow numerous symbols to be placed in Veterans Park. If the City does adopt such a policy, the FFRF would also set up a memorial.

City Attorney Vose explained the City is bound by the Constitution. The First Amendment states a government cannot choose one religion over another. If a limited public forum policy is adopted, the City would become a regulator or an administrator. It is difficult for a City to choose which displays and messages are acceptable. City Attorney Vose believes the adoption of a limited public forum policy will be difficult for the City to administer.

Andy Parrish, 933 Scott Lane, representing the Defend Veterans Park group, addressed the City Council. He expressed disdain with the Freedom From Religion Foundation. Mr. Parrish said that he and the people in attendance this evening are in support of the Veterans because of a sense of duty. He would like to assist the local Veterans in their plight to return the cross to Veterans Park. Mr. Parrish believes the Freedom From Religion Foundation hides behind an aberrant view of the First Amendment. He has proposed a limited public forum policy and encouraged the City Council to adopt the policy.

Mr. Parrish then introduced Mr. Doug Wardlow, attorney for Alliance Defending Freedom. Mr. Wardlow supported the limited public forum policy. He agreed to represent Belle Plaine without charge should any legal action be taken against the City for allowing the cross to be returned to Veterans Park. Potential penalties against the City would not be covered by ADF. Mr. Wardlow could not assure that there would be no lawsuit from FFRF or other groups.

Mayor Meyer asked for a motion for the purpose of voting on this issue. Initially, no motion was made. Councilmember Chard said he was elected to the council to protect the people's overall interest, especially the City's finances. He was concerned that adoption of the limited public forum policy would result in a lawsuit from the FFRF, thus costing money by the taxpayers. Councilmember Stier said he would like to see the cross returned to Veterans Park, but questioned whether doing so would allow the FFRF to display their symbols of choice. Mayor Meyer commented that he does not want to put the City at peril and respects the recommendation the League of Minnesota Cities and also that of City Attorney Vose regarding the difficulty in legally defending a limited public forum policy. Councilmember Stier suggested that a soldiers cross replace the Latin cross on the memorial, then there would be no need to adopt a policy.

MOTION by Councilmember McDaniel, second by Councilmember Stier, to direct Staff to prepare a limited public forum policy for Council review at the next City Council meeting. Councilmembers McDaniel, Stier and Mayor Meyer VOTED AYE. Councilmembers Chard and Coop VOTED NAY. MOTION CARRIED.

Mayor Meyer called for a recess at 7:39 p.m. and reconvened the meeting at 7:45 p.m.

5. DEPARTMENT REPORTS.

5.1. Community Services Department.

Community Services Director Mindy Chevalier was present. The Council acknowledged receipt of the Community Services Department report.

5.2. Public Works Department.

Public Works Superintendent Al Fahey was present. The Council acknowledged receipt of the Public Works Department report.

5.3. City Engineer Report.

City Engineer Joe Duncan was present. The Council acknowledged receipt of the City Engineer report.

5.4. Administration Report.

City Administrator Mike Votca was present. The Council acknowledged receipt of the Administration report.

5.4.a. American Council of Engineering Companies of Minnesota Award.

City Administrator Votca acknowledged Joe Duncan, Bolton and Menk, for the recent award from the American Council of Engineering Companies of Minnesota for engineering services of Enterprise Drive Overpass project.

6. PUBLIC HEARINGS – NONE SCHEDULED.

7. BUSINESS.

7.1. Presentation of Claims.

MOTION by Councilmember Coop, second by Councilmember Chard, to approve the Presentation of Claims. ALL VOTED AYE. MOTION CARRIED.

7.2. City/School Land Exchange.

City Administrator Votca explained that City Staff were approached by Superintendent Laager and School District staff regarding the exchange of land. The proposal is for the City of Belle Plaine to exchange property that is currently used as an ice skating rink for School District owned land that is currently used as tennis courts. This exchange of land could be used for future expansion of the swimming pool if necessary. City Administrator Votca explained the next steps that are in order to transfer land between the School District and City.

MOTION by Mayor Meyer, second by Councilmember Coop, to direct Staff to proceed with steps toward the land exchange between the City and School District. The subject land is located adjacent to the 200 block of South Market Street. ALL VOTED AYE. MOTION CARRIED.

8. ADMINISTRATION.

9.1. Upcoming Meetings.

1. Public Works, 9:00 am, Thursday, February 9.

2. EDA, 5:00 pm, Monday, February 13.

3. Joint Training – League of MN Cities – Open Meeting & Data Privacy, 6:00 pm, Mon., Feb. 13.

- 4. Planning Commission, 7:30 pm, Monday, February 13.**
- 5. EDA/Chamber Gala Palooza, 5:30 pm, Wednesday, February 15.**
- 6. City Offices Closed, Presidents Day, Monday, February 20.**
- 7. Park Board, 5:00 pm, Tuesday, February 21.**
- 8. City Council, 6:30 pm, Tuesday, February 21.**

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Chard, to adjourn the meeting at 7:57 p.m.
ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary