BELLE PLAINE CITY COUNCIL
REGULAR SESSION
FEBRUARY 22, 2011

1. PLEDGE OF ALLEGIANCE.

Mayor Tim Lies 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 Tuesday, February 22, 2011 at 6:00 p.m. at the Government Center, 218 North Meridian Street, Belle Plaine, MN. Mayor Tim Lies called the meeting to order with Councilmembers Gary Trost, Cary Coop, Paul Chard, Michael Pingalore and Scott Schneider present.

Also present were City Administrator David Murphy, Community Development Director Trisha Rosenfeld, Police Chief Tom Stolee, City Engineer Joe Duncan, City Attorney Bob Vose and Video Recording Operator Beth Dempsey. Public Works Superintendent Al Fahey and Finance Director Dawn Meyer were not present.

3. APPROVAL OF AGENDA.

Councilmember Trost requested the addition of agenda items 8.7., CSAH 3 Infrastructure Agreement and 8.8., Council Workshop.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the agenda with the additions of 8.7., CSAH 3 Infrastructure Agreement and 8.8., Council Workshop. ALL VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of February 7, 2011.

MOTION by Councilmember Chard, second by Councilmember Coop, to approve the consent agenda as follows: 4.1. Regular Session Minutes of February 7, 2011. ALL VOTED AYE. MOTION CARRIED.

5. DEPARTMENT REPORTS.

5.1. Ambulance Department.

Ridgeview Ambulance Manager Doug Sweeney was present. The Council acknowledged receipt of the Ambulance Department report.

5.2. Fire Department.

First Assistant Fire Chief Todd Otto was present. The Council acknowledged receipt of the Fire Department report.

5.3. Police Department.

Police Chief Tom Stolee was present. The Council acknowledged receipt of the Police Department report.

5.4. Community Development Department.

Community Development Director Trisha Rosenfeld was present. The Council acknowledged receipt of the Community Development Department report.

5.5. City Administration Report.

City Administrator David Murphy was present and explained he has met with Ridgeview Medical Center for the consideration of extending the ambulance service contract for ten years beyond the current expiration date. The Council acknowledged receipt of the City Administration report.

6. CERTIFICATES OF APPRECIATION.

Gary Crosby – Economic Development Authority.
Kelly Norton – Park Board, Planning Commission, Design Committee.

Mayor Lies presented certificates of appreciation to Gary Crosby for his two years of service to the Economic Development Authority and to Kelly Norton for her service to the Park Board, Planning Commission and Design Committee. ALL VOTED AYE. MOTION CARRIED.

6.1. PUBLIC FORUM.

Gary Crosby publicly thanked the Public Works Department for their efficient snow removal and utilizing more than one local hauler.

Carrie Traxler, Chamber Director, requested consideration of payment of the electrical bill for holiday lighting at Townsend Park. (See also business item 8.3., Lighting Expense at Townsend Park).

7. PUBLIC HEARINGS- NONE SCHEDULED.

8. BUSINESS.

8.1. Presentation of Claims.

Councilmember Trost asked for details on Claim #177, Page 10, for car wash sales tax refund and also inquired on the number of phones shown for the Fire Department. City Administrator Murphy responded that staff will investigate and report back to Councilmember Trost on these items.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the presentation of claims as presented. all voted aye. motion carried.

8.2. Resolution 11-023 Approving Revised Site Plan for Diversified Business Park Third Addition.

Mayor Lies referenced a memo dated February 22, 2011 from Community Development Director Rosenfeld regarding a revised site plan for McDonalds restaurant.

Community Development Director Rosenfeld explained that Oppidan Inc. is requesting the review of a revised site plan for the McDonalds/Retail Center on Lot 1, Block 1, Diversified Business Park Third Addition. Oppidan is requesting relatively minor modifications to the approved site plan that include a relocation of the trash enclosure from the west side of the building to the east side of the building and the addition of a complete sidewalk on the rear side of the building. Previously, there were just stoops at the rear exit doors for each tenant space. The revised site plan also includes a slight modification to the drive-thru lane on the east side of the building. The zoning classification for this site is I-C, Industrial Commercial. All uses in this zoning district require a Conditional Use Permit (CUP). This has been approved for the applicant for the McDonalds only. All future uses require a CUP prior to occupancy.

Oppidan has indicated the shared access aisle with the property owner to the east will remain private and have no public participation or maintenance. Coborn's was required to provide a permanent access easement for access to the adjacent properties and a copy of the executed easement document was submitted to the City and recorded at the County. The applicant has reconfigured the site and is proposing the revised layout. This development has a 3,000 sq. ft. fast-food restaurant, and retail units totaling 3,600 sq.ft. The site currently represents a total of 48 standard spaces plus two handicapped spaces for this entire development. The Conditional Use Permit previously approved allowed for the reduction in the parking requirements. The revised site plan represents an additional three standard parking stalls.

Councilmember Trost inquired about the modifications to the drive-through. City Engineer Duncan explained the revised site plan shows a separation between the parking lot and drive-through, improving the traffic flow. A trash enclosure was also added on the east side of the property. Councilmember Chard inquired about semi-truck traffic and deliveries. City Engineer Duncan explained the truck lane has its own lane and traffic route, separate from the customer lane. Pat Barrett, Oppidan, explained the semi-traffic route in further detail. Councilmember Trost inquired about the future path on the north side of the property. Community Development Director Rosenfeld explained the property owner will be responsible for the trail improvement when the east/west trail extension occurs.

MOTION by Councilmember Trost, second by Councilmember Pingalore, to approve Resolution 11-023 Approving Revised Site Plan for Diversified Business Park Third Addition. ALL VOTED AYE. MOTION CARRIED.

8.3. Lighting Expense at Townsend Park.

Mayor Lies referenced a memo dated February 22, 2011 from City Administrator Murphy regarding a request by the Chamber of Commerce for lighting expense at Townsend Park.

City Administrator Murphy explained the City Council approved Resolution 10-130 to remove the lights from the downtown trees on November 15, 2010. The Belle Plaine Chamber of Commerce had approached the Council stating that they were no longer able to maintain the lights and requested that the City perform the function. There was not any discussion regarding the responsibility of the lighting expense at Townsend Park. The utility bill for the holiday lights at Townsend Park totals $1,432.27. The bill was presented to the Belle Plaine Chamber of Commerce. The Chamber indicated that they have not paid for the utilities for the lighting ceremony and decorations in previous years. The Council previously decided to turn off the downtown lights to help offset the impact of continued loss of revenue. If it is decided that this is a City bill, the cost of the lighting will be charged to the public works streetlight electric budget.

Mayor Lies noted that the City has paid for the holiday lighting in the past. Councilmembers Trost and Pingalore questioned the rate structure of the bill. Councilmember Trost requested staff provide details on how the Xcel Energy bill was calculated.

MOTION by Councilmember Trost, second by Councilmember Coop, to authorize the payment of $1,432.27 for holiday lighting at Townsend Park. ALL VOTED AYE. MOTION CARRIED.

8.4. Resolution 11-021 Amending Fee Schedule by Amending Fees Related to Code Enforcement and Rental Licensing.

Mayor Lies referenced a memo dated February 22, 2011 from City Administrator Murphy regarding amending fees.

City Administrator Murphy explained that the City is experiencing an increase in the number of sidewalks that are not being cleared by the property owner. Currently the only way to bill for this is the hourly rate for the snow blower listed in the fee schedule. Staff has discussed the issues with tracking time and potentially different lengths of time required to clear different properties. Subsequently, staff is recommending a flat fee for sidewalk snow removal similar to the flat fee charged for mowing nuisance properties. Staff is recommending a flat fee of $150 for code enforcement snow removal from sidewalks. The other amendment included in this resolution would add a rental unit renewal inspection fee that would be different from the rental unit initial inspection. City Code requires rental unit renewal inspections every two years. Renewal inspections are not as time consuming as initial inspections and staff is recommending a reduced rate for renewal inspections from $100/unit for single family to $75, and $75/unit for multi-family to $50. Staff is hopeful that the reduced rate for renewal inspections will also increase the rate of voluntary compliance for rental inspections.

Councilmember Trost asked if the sidewalks are cleared after each snowfall. City Administrator Murphy replied the City's clears the sidewalks on a complaint basis. The property owner is notified and given three days to comply.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 11-021 Amending Fee Schedule by Amending Fees Related to Code Enforcement and Rental Licensing. ALL VOTED AYE. MOTION CARRIED.

8.5. Resolution 11-022 Authorizing Withholding of Rental Payments at 891 Diversified Drive.

Mayor Lies referenced a memo dated February 22, 2011 from Community Development Director Rosenfeld regarding withholding rental payments at 891 Diversified Drive.

Community Development Director Rosenfeld explained that Valley Business Park has not made any payment on their account since August 2010. They are now six months past due. After additional discussion and research with legal counsel regarding this matter, it has been concluded we are able to offset the rental payments the City makes to Valley Business Park for the use of their facility with the amount they are behind on their revolving loan payments. The contract was not a typical contract, therefore allowing the City to pursue this type of action. Payments were past due as of February 15, 2011 in the amount of $4,140.60. Late fees for six months at $10/month amount to $60.00, for a total due of $4,200.60. Community Development Director Rosenfeld further explained that rent payments are $2500/month. The City would withhold nearly two months rent, a total of $4,200.00 and deposit those funds into the Revolving Loan Fund account. The EDA considered this request at the February 14 meeting and agrees to the action. Furthermore, the EDA recommends the City Council authorizes withholding of rental payments at 891 Diversified Drive. Staff is requesting a motion to recommend the City Council withhold rental payments to Valley Business Park in order to bring the revolving loan account current. A letter notifying the applicant of this action would be sent upon Council approval.

Councilmember Trost commented that he understood the City could not withhold rent payment to offset the past due revolving loan account. City Attorney Vose explained that generally a municipality does not have that right, however, in this situation, the City can withhold payment. He further explained that a municipality cannot withhold an employee wages to offset a past due account with the City. City Administrator Murphy noted that unusual language in the lease agreement allows for the withholding. Councilmember Trost asked if Valley Business Park met the job creation criteria for forgiveness of a portion of the revolving loan fund. Community Development Director Rosenfeld explained that owner has not responded to the request for information.

MOTION by Councilmember Pingalore, to withhold rental payments to Valley Business Park to offset the past due revolving loan fund and to require full payment of the loan.

Mayor Lies called for a second on the motion. There was no response. MOTION DIED FOR LACK OF A SECOND.

Councilmember Pingalore requested to be kept informed on this matter. Mayor Lies concurred and asked that staff provide updates in their monthly department reports.

MOTION by Councilmember Schneider, second by Councilmember Coop, to approve Resolution 11-022 Authorizing Withholding of Rental Payments at 891 Diversified Drive. ALL VOTED AYE. MOTION CARRIED.

8.6. Accepting Resignation of Sergeant Richard Olsen and Authorizing Staff to Proceed with Advertising to Seek Candidates to Fill the Position.

Mayor Lies referenced a memo dated February 22, 2011 from City Administrator Murphy regarding the resignation of Sergeant Rick Olsen and authorizing staff to proceed with advertising to seek candidates to fill the position.

Police Chief Stolee explained that on February 16, 2011, the City received Sergeant Richard (Rick) Olsen's letter of resignation. Officer Olsen has served the Belle Plaine Police Department and the citizen's of the community since April 1, 1996. Chief Stolee requested authorization to proceed with advertising to seek candidates to begin the hiring process for a full-time peace officer. Advertisement would be placed on the Minnesota Peace Officers Standards and Training (P.O.S.T.) web site, City Hall, Belle Plaine Herald and the Belle Plaine Police Department. An anticipated closing date of the applications would be March 18, 2011.

Mayor Lies suggested the hiring process be further discussed at the Personnel Committee meeting held later this evening. Councilmember Trost was opposed to the hiring of another police officer as he believes the City hired an additional officer in 2009 while Officer Olsen was on leave from the department. Councilmember Coop suggested the Council proceed with authorizing advertising. The Council can then determine at a later date whether to proceed with the actual hiring. Councilmember Schneider inquired about the staff time and expense for advertising. Chief Stolee explained the advertising process is a simple matter; it is the interviewing process and psychological testing that takes time. Chief Stolee asked for consideration of hiring an officer. He explained the department has been very busy and an officer is needed. Mayor Lies suggested the public safety committee review the staffing needs with Chief Stolee. Councilmember Schneider concurred with Councilmember Coop and would like to see the advertising process to begin. He does not want to see a lull in police coverage.

Councilmember Chard commented that he agrees with Councilmember Trost and that there is no need to hire another officer. Councilmember Chard commented that he believes Chief Stolee is doing a fine job for the City. Mayor Lies recommended the public safety committee closely review the possible restructuring of staffing needs. Councilmember Trost commented he was opposed to proceeding with advertising to fill the vacancy.

MOTION by Councilmember Schneider, second by Councilmember Coop, to accept the resignation of Police Officer Richard Olsen. Furthermore, staff is authorized to proceed with advertising to seek candidates to fill the vacancy. Councilmember Trost VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

Councilmember Trost went on record to say he accepts the resignation of Police Officer Richard Olsen. He was opposed to the second part of the motion for the advertising to seek candidates to fill the vacancy.

8.7. CSAH 3 Infrastructure Agreement.

Councilmember Trost inquired about the CSAH 3 infrastructure agreement with property owner Phil Morris. The agreement states the City would pay Morris $300,000 if the interchange at CSAH 3 is not built by 2016. Councilmember Trost asked where the $300,000 will come from. Councilmember Coop explained the funds are budgeted each year. Councilmember Trost asked whether the City was prohibited from purchasing right-of-way for the Enterprise Drive/South Frontage Road project. City Engineer Duncan replied that the City had the right to purchase right-of-way, but it was unnecessary for this project as the property owners each donated sufficient land. Councilmember Trost asked if the Federal Government knew about the agreement. Mayor Lies explained the agreement does not impact the ARRA funds used for the construction of the frontage road. City Engineer Duncan stated that Mr. Morris donated the box culvert and a portion of a finished roadway. Mayor Lies asked that staff report back to the Council on the payment process for the $300,000 if the CSAH 3 interchange is not built by 2016.

8.8. Council Workshop.

Councilmember Trost requested a workshop consisting of the City Council only; no staff members. He believes this will give the Council an opportunity to discuss matters and work together. City Attorney Vose stated that such a meeting is possible and that someone will need to write down the date, time, persons in attendance, and a brief outline of discussion. Councilmember Schneider had concerns about a council workshop. He commented there is a perception by the residents that the council makes decisions at workshops without public knowledge. Councilmember Chard concurred. It was the consensus of the Council to schedule a work session for Monday, March 28, 2011 at 7:00 p.m.

Councilmember Trost commented that he was approached by a business owner who wanted the assurance that a variance would be approved prior to paying the application fee. City Attorney Vose cautioned the Council on addressing a variance issue without proper procedure. He indicated the Planning Commission would be the correct venue for an opinion on the variance request, prior to formal application, further explaining the City's Subdivision Ordinance allows for preliminary review. Councilmember Coop preferred the formal application process, stating the Planning Commission may become overloaded with requests. He recalled when the Planning Commission held numerous meetings each month due to special requests and when the special session fee was implemented, the demand for emergency meetings dropped.

Recess Regular Session.

Mayor Lies recessed the regular session at 7:46 p.m.

8.8. CLOSED SESSION.

Attorney-Client Privilege – Heselton Settlement.

Mayor Lies announced the closed session at 7:50 p.m. with Councilmembers Trost, Pingalore, Chard, Coop and Schneider present. Also present were City Administrator Murphy, City Engineer Duncan and City Attorney Bob Vose.

City Attorney Vose provided a status report on the Heselton-Ellingson case. He recommended approval of the proposed settlement agreement to allow the City to be removed from the mediation.

Reconvene Regular Session.

Mayor Lies adjourned the closed session at 8:00 p.m. and reconvened the regular session.

8.9. Approving Heselton Settlement Agreement.

MOTION by Councilmember Schneider, second by Councilmember Coop, to approve the Heselton settlement agreement as presented. ALL VOTED AYE. MOTION CARRIED.

8.10. Authorizing Pay Request No. 11 and Final by Heselton Construction, LLC FOR $78,755.29 for the North Interceptor Sanitary Sewer Extension.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Pay Request No. 11 and Final by Heselton Construction, LLC FOR $78,755.29 for the North Interceptor Sanitary Sewer Extension. ALL VOTED AYE. MOTION CARRIED.

9. ADMINISTRATION.

9.1. Upcoming Meetings.
1. Public Safety, 4:00 p.m., Wednesday, March 2.
2. City Council, 6:00 p.m., Monday, March 7.
3. EDA, 5:00 p.m., Monday, March 14.
4. SCALE Joint Session/Council, EDA and Planning Commission, 6:00 p.m., Monday, March 14.
5. Public Works, 8:30 a.m., Thursday, March 17.
6. Design Committee, 5:00 p.m., Monday, March 21.
7. City Council, 6:00 p.m., Monday, March 21.

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Schneider, to adjourn at 8:02 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary