

**BELLE PLAINE CITY COUNCIL
REGULAR SESSION
MARCH 17, 2014**

1. PLEDGE OF ALLEGIANCE.

Mayor Michael Pingalore 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, March 17, 2014 at 6:00 p.m. in the council chambers of City Hall, 218 North Meridian Street, Belle Plaine, MN. Mayor Michael Pingalore called the meeting to order with Councilmembers Gary Trost, Cary Coop, Scott Schneider and Paul Chard present.

Also present were Interim City Administrator Dawn Meyer, Police Chief Tom Stolee, City Engineer Joe Duncan and City Attorney Bob Vose. Dawn Meyer served as the video recording operator.

3. APPROVAL OF AGENDA.

Mayor Pingalore requested the addition of a Closed Session to discuss potential land acquisition for the CSAH 3 area bridge and also a proclamation for March Myeloma Awareness Month.

MOTION by Councilmember Coop, second by Councilmember Chard, to approve the agenda with the addition of a Closed Session to discuss potential land acquisition for the CSAH 3 area bridge and also a proclamation for March Myeloma Awareness Month. ALL VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of March 3, 2014.

4.2. Approving 3.2% Intoxicating Temporary Liquor License for the Belle Plaine Baseball Association at Union Square Park.

4.3. Call for Public Hearing on Proposed Ordinance 14-05 Pertaining to Scrap Recycling Facilities.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the consent agenda as follows: 4.1. Regular Session Minutes of March 3, 2014, 4.2. Approving 3.2% Intoxicating Temporary Liquor License for the Belle Plaine Baseball Association at Union Square Park, and 4.3. Call for Public Hearing on Proposed Ordinance 14-05 Pertaining to Scrap Recycling Facilities. ALL VOTED AYE. MOTION CARRIED.

5. DEPARTMENT REPORTS.

5.1. Ambulance Department.

The Council acknowledged receipt of the Ambulance Department report as submitted by Ridgeview Medical.

5.2. Fire Department.

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.

The Council acknowledged receipt of the Community Development Department report.

6. RECOGNITION OF INVOLVED CITIZENS.

6.1. Visitor's Request - Water Bill Dispute, Glenn Crawley, 245 South Walnut Street.

Mayor Pingalore welcomed Glenn Crawley.

Interim City Administrator Meyer explained the City has received a written request regarding a utility bill dispute from Glenn Crawley, 245 South Walnut Street. Mr. Crawley claims the water meter was faulty and has requested to address the City Council to seek credit for his past bills. The City's utility technician Mark Herd states the City has had a lot of contact regarding the Crawley water meter and usage. The Crawleys were consistently using 7,000 gallons a month for two people. The meter was checked for accuracy and it was correct. The City then replaced the meter with an iPerl unit so that a 30 day past history could be obtained. The results indicated consistent water use throughout the day and night. Unfortunately the HD Waterworks rep lost the data when he closed his laptop prior to saving the file – but we had shown the data to Peggy Crawley and discussed it with her. As a result of the data findings and the discussion the water softener was bypassed and their usage went down to 4,000 gallons a month. HD Waterworks representative Mark Hines and Utility Technician Mark Herd believe the issue is due to the water softener.

Mr. Crawley addressed the City Council. He explained that he is knowledgeable with the workings of the water meter. He said that City employees Al Fahey and Mark Herd came to his house to help determine what was causing the high usage. Mr. Crawley said he did not unplug the water softener as recommended to conduct a usage test and therefore believes the meter was defective and it was not the water softener causing the problem. He said that he has seen older water meters that mistakenly read excessively high. He asked the City consider reducing his water bill as he believes the water meter was defective. Councilmember Chard said he has had experiences with water softeners that have caused high usage. Councilmember Trost commented that he doubts that a water meter can read high. Mayor Pingalore commented that Mr. Crawley said the water softener was not bypassed. It was the consensus of the Council to table this issue to allow time to obtain further details from staff regarding this situation.

This issue will be placed on a future agenda.

6.2. Proclamation – March Myeloma Awareness Month.

Mayor Pingalore read the proclamation for the March Myeloma Awareness Month.

7. PUBLIC HEARINGS.

7.1. Ordinance Amendment 14-03. The City Council will consider public comment on proposed Ordinance 14-03, an Interim Ordinance (Moratorium) temporarily prohibiting the establishment of any new "tobacco related products shops" until such time review of regulations are completed, or one year, whichever comes first.

Mayor Pingalore read a memo dated March 17, 2014 as prepared by Community Development Director Alger regarding Ordinance Amendment 14-03, Interim (Moratorium) Ordinance. The memo read as follows:

At the March 3rd workshop City staff addressed the Council regarding the topic of an interim ordinance that would temporarily prohibit the establishment of tobacco related products shops until further review of any new licensing or related provisions pertaining to these uses, deemed appropriate by the Council, were complete; or until one year from the date the interim ordinance was passed, whichever occurred first. Part of this discussion included the topic of licensing requirements for electronic cigarettes, which is being considered separately by Ordinance 14-04, found under Item 8.4 of this Agenda. This topic has

been under review in many cities over the last several months and, like Belle Plaine, is new enough that many have no regulations regarding it. Ordinance 14-03, which, if passed, would temporarily prohibit the establishment of new tobacco-related product shops, which, to Staff's knowledge, there presently are none of in Belle Plaine. "Temporarily" used in this context means until such time that any ordinance and/or licensing revisions deemed appropriate by the Council are in place, or one-year has passed, whichever comes first. The Ordinance, if passed does not ban the use or sale of e-cigarettes, nor is the outcome of the study intended to ban these items or the establishment of tobacco related product shops. The moratorium merely allows staff time to research the information that has come out on the subject recently and provide the Council with any additional considerations pertaining to these uses.

Mayor Pingalore opened the public hearing at 6:25 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Coop, second by Councilmember Chard, to close the public hearing at 6:26 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Coop asked if this ordinance implies that tobacco shops are involved with illegal activities. Interim City Administrator Meyer replied that a moratorium allows time for the City to research appropriate regulations and ensure that illegal activities are prohibited. City Attorney Vose advised that language can be modified to remove implications cited by Councilmember Coop. Councilmember Coop questioned the purpose of the moratorium when there is no issue at this time in the City. Chief Stolee commented the moratorium is not to ban tobacco products shop but to allow time for staff to research this issue further and proceed with proper regulations to make an informed decision.

1. Reading of Ordinance 14-03.

MOTION by Councilmember Schneider, second by Councilmember Chard, to adopt Ordinance 14-03, an Interim Ordinance (Moratorium) temporarily prohibiting the establishment of any new "tobacco related products shops" until such time review of regulations are completed, or one year, whichever comes first. Councilmember Coop VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

2. Resolution 14-033 Authorizing Summary Publication of Ordinance 14-03, Enacting Moratorium on Establishment of Tobacco Related Products Shop.

MOTION by Councilmember Schneider, second by Councilmember Chard, to approve Resolution 14-033 Authorizing Summary Publication of Ordinance 14-03, Enacting Moratorium on Establishment of Tobacco Related Products Shop. ALL VOTED AYE. MOTION CARRIED.

7.2. Ordinance Amendment 14-02. The City Council will consider public comment on proposed Ordinance 14-02, Repealing and Replacing Chapter 4, Public Health and Protection, in its entirety, and modifying certain sections of Chapter 3, Chapter 6 and Chapter 11 that pertain to public health and protection.

Interim City Administrator Meyer read a memo dated March 17, 2014 as prepared by Community Development Director Alger regarding Ordinance Amendment 14-02, Repealing and Replacing Chapter 4, Public Health and Protection, in its entirety, and modifying certain sections of Chapter 3, Chapter 6 and Chapter 11 that pertain to public health and protection. The memo read as follows:

Ordinance 14-02, encompasses the revised Nuisance Ordinance in Chapter 4. Due to nuisance regulations being located in three different Chapters within City Code, all with varying enforcement proceedings, and a portion of Chapter 4 regarding waste hauler regulations that should be in Chapter 3, Staff has prepared this revised Ordinance, which incorporates all provisions and one enforcement proceeding (with three levels of abatement), as well as proposing amendments to Chapters 3, 6 and 11 that complement the changes to Chapter 4. Staff feels this will create more efficiency in the nuisance

violation process. The defined public nuisances already exist in Code language, but some of the enforcement language is new.

Mayor Pingalore opened the public hearing at 6:38 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Schneider, second by Councilmember Trost, to close the public hearing at 6:39 p.m. ALL VOTED AYE. MOTION CARRIED.

1. Ordinance 14-02, Repealing and Replacing Chapter 4, Public Health and Protection, in its entirety, and modifying certain sections of Chapter 3, Chapter 6 and Chapter 11 that pertain to public health and protection.

MOTION by Councilmember Coop, second by Councilmember Schneider, to adopt Ordinance 14-02, Repealing and Replacing Chapter 4, Public Health and Protection, in its entirety, and modifying certain sections of Chapter 3, Chapter 6 and Chapter 11 that pertain to public health and protection. ALL VOTED AYE. MOTION CARRIED.

2. Resolution 14-031 Authorizing Summary Publication of Ordinance 14-02, Public Health and Protection.

MOTION by Councilmember Schneider, second by Councilmember Coop, to approve Resolution 14-031 Authorizing Summary Publication of Ordinance 14-02, Public Health and Protection. ALL VOTED AYE. MOTION CARRIED.

7.3. Ordinance Amendment 14-01. The City Council will consider public comment on proposed Ordinance 14-01, Repealing and Replacing Section 1107.20 Signs, of the Zoning Ordinance.

Interim City Administrator Meyer read a memo as prepared by Community Development Director Alger regarding Ordinance 14-01, encompassing the proposed revisions to the Sign Ordinance that the Planning Commission has been working on for the last several months. Many of the existing regulations remain the same, and the amendments primarily target the issue of duplicate and conflicting language, as well as outdated standards that currently exist in the Sign Ordinance. Some of the other highlights of the revisions include adding provisions for "dynamic signs" (i.e. digital signs), maintaining the provisions for temporary directional signs, and allowing for increased size allotment for real estate and identification signs adjacent to Highway 169.

Mayor Pingalore opened the public hearing at 6:39 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Trost, second by Councilmember Coop, to close the public hearing at 6:40 p.m. ALL VOTED AYE. MOTION CARRIED.

1. Ordinance 14-01, Repealing and Replacing Section 1107.20 Signs, of the Zoning Ordinance.

MOTION by Councilmember Trost, second by Councilmember Schneider, to adopt Ordinance 14-01, Repealing and Replacing Section 1107.20 Signs, of the Zoning Ordinance. ALL VOTED AYE. MOTION CARRIED.

2. Resolution 14-030 Authorizing Summary Publication of Ordinance 14-01, Signs.

MOTION by Councilmember Schneider, second by Councilmember Coop, to approve Resolution 14-030 Authorizing Summary Publication of Ordinance 14-01, Signs. ALL VOTED AYE. MOTION CARRIED.

8. BUSINESS.

8.1. Presentation of Claims.

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

8.2. Accepting 2013 Audit Report – Brad Falteysek, Abdo, Eick & Meyers.

Mayor Pingalore welcomed Brad Falteysek of Abdo, Eick & Meyers.

Mr. Falteysek presented the City's 2013 annual audit and management letter. He provided an overview of the auditing process and reviewed the details in the management letter. He noted the recent utility rate study that is impacting the water and sewer enterprise funds.

Councilmember Trost requested an update on the status of the water and sewer funds in July 2014.

MOTION by Councilmember Schneider, second by Councilmember Trost, to accept the 2013 audit report and management letter as presented by Abdo, Eick & Meyers. ALL VOTED AYE. MOTION CARRIED.

8.3. Ordinance 14-04 Adding Language to Chapter 3, Section 304.00, Relating to the Licensing of Electronic Cigarettes.

Police Chief Stolee read a memo prepared by Community Development Director Alger regarding Ordinance 14-04 as follows: At the March 3rd workshop City staff addressed the Council regarding the topic of an interim ordinance that would temporarily prohibit the establishment of tobacco related products shops until further review of any new licensing or related provisions pertaining to these uses, deemed appropriate by the Council, were complete; or until one year from the date the interim ordinance was passed, whichever occurred first. Part of this discussion included the topic of licensing requirements for electronic cigarettes. This topic has been under review in many cities over the last several months and, like Belle Plaine, is new enough that many have no regulations regarding it. From this discussion, Council asked Staff to look into the licensing of electronic cigarettes, the same as tobacco products are licensed. Ordinance 14-04, which, if passed, would amend Section 304 of the City Code, relating to the regulation of tobacco-related products, to include e-cigarettes under the definition of "tobacco related products," therefore subjecting them to the same licensing requirements as other tobacco products. This includes such provisions as restricting sale to minors and access of products to the public to the same extent that tobacco products are regulated; as well as subjecting retailers of the product to compliance checks. According to information obtained from the League of MN Cities similar regulations have been applied by other cities who have done comparable reviews of their licensing ordinances. Information provided included recent ordinances passed by Duluth, St. Paul, Mankato, Maplewood and Faribault.

MOTION by Councilmember Coop, second by Councilmember Schneider, to adopt Ordinance 14-04 Adding Language to Chapter 3, Section 304.00, Relating to the Licensing of Electronic Cigarettes. ALL VOTED AYE. MOTION CARRIED.

8.4. Resolution 14-032 Award Bid for Well No. 4 Rehabilitation.

City Engineer Duncan explained that bids for the Well No. 4 Rehabilitation Project were opened on March 14, 2014. The bid package was unique in that it included a project bid and four various methods of rehabilitation. Three bids were received and the low bidder was Thein Well Co. Inc. in the amount of \$78,275.00, plus the appropriate rehabilitation method as determined following the review of the video log.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 14-032 Award Bid for Well No. 4 Rehabilitation Thein Well at \$78,275.00 for the Well No. 4 project, plus the cost of the appropriate rehabilitation method. ALL VOTED AYE. MOTION CARRIED.

Mayor Pingalore recessed the regular session at 7:10 p.m. and convened the closed session.

8.5. Closed Session.

Mayor Pingalore convened the closed session at 7:16 p.m. with Councilmembers Trost, Schneider, Chard and Coop presented. Also present were Interim City Administrator Meyer, City Engineer Joe Duncan and City Attorney Bob Vose.

8.5.1. Discussion on Potential Land Acquisition.

The Council and staff discussed potential land acquisition for the proposed CSAH 3 area bridge.

Reconvene Regular Session.

Mayor Pingalore adjourned the closed session at 7:30 p.m. and reconvened the regular session at 7:30 p.m.

9. ADMINISTRATION.

9.1. Upcoming Meetings.

- 1. Public Safety, 4:30 p.m., Tuesday, April 1.**
- 2. City Council, 6:00 p.m., Monday, April 7.**
- 3. Work Session, 6:30 p.m., Monday, April 7.**
- 4. Public Works, 11:00 a.m., Tuesday, April 8.**
- 5. EDA, 5:00 p.m., Monday, April 14.**
- 6. Design Committee, 6:30 p.m., Monday, April 14.**
- 7. Planning Commission, 7:00 p.m., Monday, April 14.**

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Mayor Pingalore, to adjourn at 7:31 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary