

**BELLE PLAINE CITY COUNCIL
REGULAR SESSION
APRIL 4, 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 Monday, April 4, 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 and Scott Schneider present. Councilmember Michael Pingalore was not present.

Also present were City Administrator David Murphy, Community Development Director Trisha Rosenfeld, Public Works Superintendent Al Fahey, Finance Director Dawn Meyer, Police Chief Tom Stolee, City Engineer Joe Duncan and City Attorney Bob Vose. Beth Dempsey served as the Video Recording Operator.

3. APPROVAL OF AGENDA.

City Administrator Murphy requested the addition of agenda item 8.7. Resolution 11-038 Relating to Parking Restrictions Along East Main Street.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the agenda with the addition of 8.7. Resolution 11-038 Relating to Parking Restrictions Along East Main Street. ALL VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of March 21, 2011.

4.2. Accepting Resignation of Robert Chaussee from the Planning Commission and Authorizing Staff to Proceed with Advertising to Seek Candidates to Fill the Vacancy.

4.3. Arbor Day Proclamation.

4.4. Authorizing City Administrator Murphy to Attend City-County Managers Seminar Sponsored by the Minnesota Cities Management Association.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the consent agenda as follows: 4.1. Regular Session Minutes of March 21, 2011, 4.2. Accepting Resignation of Robert Chaussee from the Planning Commission and Authorizing Staff to Proceed with Advertising to Seek Candidates to Fill the Vacancy, 4.3. Arbor Day Proclamation, and 4.4. Authorizing City Administrator Murphy to Attend City-County Managers Seminar Sponsored by the Minnesota Cities Management Association. ALL VOTED AYE. MOTION CARRIED.

5. DEPARTMENT REPORTS.

5.1. Community Services Department.

Community Services Director Nelson Ladd was present. The Council acknowledged receipt of the Community Services Department report.

5.2. Public Works Department.

Public Works Superintendent Al Fahey was present. Councilmembers Trost and Chard had comments about the temporary traffic lights installed at Main Street and Walnut (TH25) Street. Fahey to check with MnDOT about switching to flashing red after 8:00 p.m. 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 Engineer Report.

5.4. City Administration Report.

City Administrator David Murphy was present. The Council acknowledged receipt of the City Administration report.

6. PUBLIC FORUM.

Mayor Lies asked for public comments.

Jean McDermand, Belle Plaine Township Clerk, addressed the Council and distributed a packet of information to the councilmembers. She commented that the volunteer EMT's were not aware of the large amount of fund balance in the Ambulance Fund. She asked for the City and Townships to come to an agreement on the former Fund 201 Ambulance remaining fund balance.

7. PUBLIC HEARINGS – NONE SCHEDULED.

8. BUSINESS.

8.1. Presentation of Claims.

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

8.2. 2010 Audit Report – Brad Falteysek, Abdo, Eick & Meyers.

Mayor Lies referenced a memo dated April 4, 2011 from Finance Director Meyer regarding the 2010 audit report.

Finance Director Meyer explained the City Council must formally accept the annual audit. Brad Falteysek from Abdo, Eick & Meyers LLP, the City's auditing firm, will present the City's 2010 annual audit and management letter. This year the City was also subject to a single audit due to the Federal grant received for the South Frontage Road.

Mayor Lies welcomed Mr. Brad Falteysek of Abdo, Eick & Meyers.

Mr. Falteysek presented the City's 2010 audit report and management letter. He explained the status of the General Fund 101 and the enterprise funds. He stated the City appears to have a healthy fund balance. Staff is in compliance with the accounting principles as outlined in the management letter and Mr. Falteysek complimented staff of their efficiency with the pre-audit work.

MOTION by Councilmember Coop, second by Councilmember Schneider, to accept the 2010 audit report and management letter as prepared by the City's auditor, Abdo, Eick & Meyers. ALL VOTED AYE. MOTION CARRIED.

8.3. Request to Allow Chickens at 220 South Elm Street.

Mayor Lies referenced a memo dated April 4, 2011 from City Administrator Murphy regarding a request to allow chickens at a residence.

City Administrator Murphy explained that Greg Wickenhauser has submitted a request to keep chickens at his property at 220 South Elm Street. Section 802.03 of the Belle Plaine City Code states that it is unlawful to keep farm animals in City, however a resident must petition the City Council for an exception from the regulation and that such exemption shall only be granted upon findings that public safety will not be compromised by such an exemption. Mr. Wickenhauser is proposing to keep 4 to 5 chickens on his property. Mr. Wickenhauser stated that he would place a small shed in the northwest portion of the portion of his property that is enclosed with a chain link fence. He further stated that he plans to keep the chickens through the summer and would butcher them this fall. Mr. Wickenhauser stated that he has not had any contact with the neighbors regarding the chickens and does not know whether they are opposed.

Mayor Lies stated that the City Council has received letters from two neighboring property owners who were opposed to allowing chickens at 220 South Elm Street. Mayor Lies suggested tabling this issue to allow time for staff to prepare an ordinance amendment regulating chickens within City limits. He further explained that many other cities are dealing with this same issue and some cities have adopted ordinances allowing chickens and other animals.

Councilmember Trost stated he did not agree with allowing farm animals to reside within the city limits. He noted there are many other animals than chickens that would need to be considered, such as pot belly pigs, goats, rabbits and pigeons.

MOTION by Mayor Lies, second by Councilmember Schneider, to TABLE action on the request by Greg Wickenhauser to allow chickens at 220 South Elm Street to allow time for staff to prepare an ordinance amendment pertaining to farm animals. Mayor Lies and Councilmember Schneider VOTED AYE. Councilmembers Trost, Coop and Chard VOTED NAY. MOTION FAILED.

MOTION by Councilmember Trost, second by Councilmember Chard, to DENY the request by Greg Wickenhauser to allow chickens at 220 South Elm Street. Councilmembers Trost, Chard, Coop and Schneider VOTED AYE. Mayor Lies VOTED NAY. MOTION CARRIED.

8.4. Request for Strong Beer by the Chamber of Commerce.

Mayor Lies referenced a memo dated April 4, 2011 from City Administrator Murphy regarding a request by the Belle Plaine Chamber of Commerce to allow the sale of strong beer at Union Square during the annual Bar B Q Days celebration.

Carrie Traxler, Executive Director of the Chamber of Commerce, was present. She explained the Bar-B-Q-Days Committee would like to sell strong beer because there are very limited choices in beer selection at 3.2% and that customers prefer the taste of strong beer over 3.2%. Ms. Traxler said that many other communities have switched to strong beer for their community festivals.

City Attorney Vose explained the City Code may be amended to allow for temporary on-sale intoxicating liquor license. City Administrator Murphy further explained that the definition of strong beer would need to be defined in the City Code. Police Chief Stolee explained that there is a huge influx of people moving between Union Square and the liquor establishments. He believed the strong beer license would not create any additional issues for the City, explaining the customers may be inclined to stay within the beer garden rather than going to the liquor establishment if strong beer is available at the Bar B Q days event. Councilmember Schneider inquired about the cost of staff time and publication costs for the preparation of an ordinance amendment.

MOTION by Councilmember Coop, second by Councilmember Trost, to direct staff to proceed with the preparation of an ordinance amendment to allow strong beer to be sold under a temporary on-sale liquor license, contingent upon the payment of the ordinance amendment fee per the City's fee schedule by the Chamber of Commerce. ALL VOTED AYE. MOTION CARRIED.

8.5. Sale of Fireworks.

Mayor Lies referenced a memo dated April 4, 2011 from City Administrator Murphy regarding a request to see fireworks at Coborns Superstore.

City Administrator Murphy explained the City has received a request from Coborns, Inc. to sell fireworks at Coborns Superstore, 1010 East Enterprise Drive, Belle Plaine. This would be an indoor display of various fireworks-related items. The Belle Plaine City Code does not address the sale of fireworks. According to the City Attorney Bob Vose, "the sale of fireworks is governed by state law, MS Section 624.20- .25. Basically the statute prohibits the sale of certain kinds of fireworks. It also allows cities to require a license and license fee for retail sales of items that are legal to sell (sparklers, snakes, glow worms, smoke bombs, poppers, snappers, etc). Legal fireworks cannot be sold to people under 18. Sellers must check id's. It doesn't appear that Belle Plaine has enacted a licensing requirement. I'd expect any City licensing requirements to be in Section 300 but I don't see anything. So I think Coborns can sell fireworks in accordance with state law, without any City oversight. Of course, the City could enact a licensing requirement. The annual license fee would be capped at \$100."

Councilmember Schneider commented that he believed, due to staff time and efforts, to have the City refrain the requiring a local fireworks permit and have retailers abide by State regulations.

MOTION by Councilmember Schneider, second by Councilmember Trost, to allow local retail stores to sell fireworks as regulated by State Statute, Section 624.20 – 25, without City licensing requirement. ALL VOTED AYE. MOTION CARRIED.

8.6. Status of City Building at 123 West Main Street.

Public Works Superintendent Fahey explained that he was informed that there is mold at the City's building at 123 West Main Street. Front Porch Photography is currently leasing the building from the City. Public Works Superintendent Fahey explained that the building needs a new roof and windows. He asked whether the City Council wanted to make these improvements to the aging building.

Councilmember Trost was opposed to making costly improvements and suggested the building be torn down. Public Works Superintendent Fahey explained that he has not yet obtained costs for the removal of the mold or for the replacement of the windows and roof. The mold inspection report is expected to cost \$2,400. Mayor Lies expressed concern for the safety of the tenant and noted it is difficult to make a decision without having the facts about the mold situation. Public Works Superintendent Fahey explained that he has the opportunity to speak with a consultant on April 8, 2011 regarding the mold. The consultant may be able to provide more information regarding the severity of the mold. Councilmember Trost recommended staff contact the tenant and advise her of the mold issue. Councilmember Coop suggested that the building be closed immediately and the tenant notified. City Attorney Vose explained that it is unknown of the severity of the mold issue at this time and it appears the City is taking steps to address the issue. The City does assume some liability with the mold issue, however, the dangers are unknown at this time. Mayor Lies concurred, stating it is important to obtain an inspection to determine the fate of the building. It was the consensus of the Council to have Public Works Superintendent Fahey make a determination on whether to proceed with ordering a full scale mold inspection of the building based on the conversation with the consultant on April 8, 2011. This issue will be placed on the council agenda for April 18, 2011 for an update.

8.7. Resolution 11-038 Relating to Parking Restrictions State Aid for Local Transportation Along TH25/East Main Street.

City Engineer Duncan explained that a resolution restricting parking along the north side of East Main Street between Walnut Street and Elm Street is needed by MnDOT for the TH25 additional traffic lane project slated for later this year.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 11-038 Relating to Parking Restrictions State Aid for Local Transportation Along TH25/East Main Street for S.P. 7003-112, S.A.P. 239-010-002. ALL VOTED AYE. MOTION CARRIED.

9. ADMINISTRATION.

9.1. Upcoming Meetings.

1. Public Safety, 4:00 p.m., Wednesday, April 6.
2. Comm Rec, 4:00 p.m., Monday, April 11.
3. EDA, 5:00 p.m., Monday, April 11.
4. Planning Commission, 7:00 p.m., Monday, April 11.
5. Episcopalian Church Restoration, 5:30 p.m., Tuesday, April 12. (no council liaisons).
6. Design Committee, 4:45 p.m., Monday, April 18.
7. Board of Equalization, 5:30 p.m. Monday, April 18.
8. City Council, 6:00 p.m., Monday, April 18.
9. Public Works, 8:30 a.m., Thursday, April 21.

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Schneider, to adjourn at 7:55 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary