BELLE PLAINE CITY COUNCIL
REGULAR SESSION
APRIL 5, 2010

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 5, 2010 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 Dawn Underferth, Jim Lange, Gary Trost, Tim O'Laughlin and Cary Coop 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, City Attorneys Bob Vose and Julie Eddington, and Video Recording Operator Beth Dempsey.

3. APPROVAL OF AGENDA.

MOTION by Councilmember Lange, second by Councilmember Coop, to approve the agenda as presented. ALL VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of March 15, 2010.
4.2. Work Session Minutes of March 22, 2010.
4.3. Authorizing City Administrator Attendance at Annual MCMA Conference.
4.4. Resolution 10-044 Appointing Pat O'Laughlin as Head Election Judge.
4.5. Resolution 10-045 Authorizing Assessment for Delinquent Fire Bill.
4.6. Approving Large Assembly Permit for the Belle Plaine Historical Society for the 2010 Robert Creek Rendezvous and Native American Artifact Show.
4.7. Endorsing MnDOT Landscaping for the TH25 Interchange Area.

MOTION by Councilmember Coop, second by Councilmember Lange, to approve the consent agenda as follows: 4.1. Regular Session Minutes of March 15, 2010, 4.2. Work Session Minutes of March 22, 2010, 4.3. Authorizing City Administrator Attendance at Annual MCMA Conference, 4.4. Resolution 10-044 Appointing Pat O'Laughlin as Head Election Judge, 4.5. Resolution 10-045 Authorizing Assessment for Delinquent Fire Bill, 4.6. Approving Large Assembly Permit for the Belle Plaine Historical Society for the 2010 Robert Creek Rendezvous and Native American Artifact Show and 4.7. Endorsing MnDOT Landscaping for the TH25 Interchange Area. ALL VOTED AYE. MOTION CARRIED.

5. DEPARTMENT REPORTS.

5.1. Community Services Department.

Community Services Director Nelson Ladd was present. Councilmember Trost requested that parking be allowed on Schoolhouse Drive during little league games. The Public Safety Committee will review this issue at their upcoming meeting. The Council acknowledged receipt of the Community Services Department report.

5.2. Public Works Department.

Public Works Superintendent Al Fahey was present and reported the bituminous “hot mix” for patching potholes will be ready to apply in about two weeks. Mayor Lies asked when the alley improvement in Block 103 will be completed. Public Works Superintendent Fahey stated he will check into this and report back. The Council acknowledged receipt of the Public Works Department report.

5.3. 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.

7. PUBLIC HEARINGS – NONE SCHEDULED.

BUSINESS.

8.1. Presentation of Claims.

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

8.2. Resolution 10-046 Granting Extension of Filing Plat for Diversified Business Park Second Addition.

Mayor Lies referenced a memo dated April 5, 2010 from Community Development Director Rosenfeld regarding a request for extension of filing plat for Diversified Business Park Second Addition.

Community Development Director Rosenfeld explained that Oppidan Inc. is requesting an extension of the final plat approval for Diversified Business Park Second Addition. Oppidan is requesting an extension be granted until June 15, 2010. The final plat was approved by the City Council on January 19, 2010. City Code, Chapter 12, Section 1204.03 indicates the sub-divider shall record the final plat with the County Recorder’s Office within 90 days after the date of the approval; otherwise the approval shall be considered void. The final plat would be void if not recorded by April 15, 2010. The proposed resolution would extend the filing date to June 15, 2010.

MOTION by Councilmember Trost, second by Councilmember Underferth, to approve Resolution 10-046 Granting Extension of Filing Plat for Diversified Business Park Second Addition. ALL VOTED AYE. MOTION CARRIED.

8.3. Resolution 10-050 Approving Contract for Private Development with Coborns, Inc.

Mayor Lies referenced a memo dated April 5, 2010 from Community Development Director Rosenfeld regarding the tax abatement agreement with Coborns, Inc.

Community Development Director Rosenfeld explained that the Council’s direction to staff from the public hearing that was held on March 15, 2010 for the tax abatement request was to work with Oppidan and Coborn’s on an agreement for the tax abatement. This has been completed and the proposed, mutually agreed upon, contract for private development was prepared. Since the public hearing was held, an update on the agreement was provided to the City Council at the March 22 workshop. Since the workshop, the agreement has refined the definition of tax abatement to complement how the term is defined in the proposed resolution. Also, clarity on the indemnification clause was addressed. In the proposed agreement being presented this evening, the “look back” provision is only provided if the minimum said improvements are sold to a third party. Legal counsel has prepared a memo outlining the terms if the Council would like to add additional language to the “look back” provision to include construction costs. If the Council feels this additional language is not necessary, the agreement may be acted upon as presented.

Legal counsel, Julie Eddington, Kennedy & Graven, addressed the council. She explained the final agreement between the City and Coborns is being presented. Oppidan was the original applicant for the subsidy; however, Coborns has decided to purchase the land directly and will pay for the development costs. Therefore, the agreement is no longer with Oppidan, Inc., who will now be managing the construction for a management fee.

Councilmember Underferth inquired about the changes to the look back provision. Mayor Lies asked for clarification on the look back provision. Ms. Eddington explained that there is only a “upon sale” look back provision in the agreement. If Coborns sells the property within ten years, then an analysis will be performed to determine if a refund of the abatement is in order. Ms. Eddington stated she has prepared a memo with another look back option in which the City could analyze the costs submitted on the sources and uses report. If the actual costs are less, then a reduced subsidy would be in order.

Councilmember Underferth stated that now it appears that Coborns is including the interior build-out, which escalates the cost and that it was not part of the original agreement. Councilmember Lange concurred. Councilmember Trost stated that the terms in the proposed agreement are not what the City Council had agreed to and that the agreement has been changed drastically. He explained that the original look-back provision provided a reduced abatement if land and construction costs were lower than the submitted cost.

Community Development Director Rosenfeld distributed a memo dated April 2, 2010 from Julie Eddington, Kennedy and Graven, regarding the look back provision for the Coborn’s abatement agreement. The Council reviewed the memo.

Mayor Lies called for a recess at 6:22 p.m. and reconvened the meeting at 6:25 p.m.

Councilmember Trost suggested that the memo be read aloud for the public record. Councilmember Lange expressed concern for lack of the document Exhibit D as referenced in the memo. Ms. Eddington explained that Exhibit D is the developer’s pro forma.

MOTION by Councilmember Trost, second by Councilmember Lange, to TABLE action on Resolution 10-050 Approving Contract for Private Development with Coborns, Inc. until the next council meeting on April 19, 2010 to allow time to review the developer’s pro forma referenced as Exhibit D, and the sources and uses analysis, Exhibit E. Mayor Lies voted NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

8.4. Resolution 10-047 Authorizing Final Application for the Minnesota Historical and Cultural Grants.

Mayor Lies referenced a memo dated April 5, 2010 from Community Development Director Rosenfeld regarding the final application for the Minnesota Historical and Cultural Grants.

Community Development Director Rosenfeld explained that staff has received feedback from the pre-application for the grant from the Minnesota Historical and Cultural Grant Program for the restoration of the Episcopal Church of Transfiguration Building. The feedback has been used to revise the pre-application for submittal of a final application due April 12, 2010. Included with this memo is the feedback from the Minnesota Historical Society and the final grant application for your review. The application will be submitted prior to April 12, 2010. Representatives from the Minnesota Historical Society have indicated the response time for grant approval or denial will be dependent upon how many applications are received. They anticipate it may be the end of June before a decision is rendered on the application. Also, the amount requested may be reduced and a smaller amount may be granted. Included with Community Development Director Rosenfeld's memo were the rules and responsibilities associated with the grant.

Councilmember Lange inquired as to what will occur if the City is approved for only a portion of the grant. Community Development Director Rosenfeld explained that the City Council will make a determination on how to proceed at that time.

MOTION by Councilmember Trost, second by Councilmember Underferth, to approve Resolution 10-047 Authorizing Final Application for the Minnesota Historical and Cultural Grants. ALL VOTED AYE. MOTION CARRIED.

8.5. Large Assembly Permit for Temporary Outdoor Movie Theater by the Belle Plaine Fire Relief Association.

Mayor Lies referenced a memo dated April 5, 2010 from City Administrator Murphy regarding a request by the Fire Relief Association for a large assembly permit.

City Administrator Murphy explained that the Belle Plaine Fire Department has applied for a Large Assembly Permit to hold a one day outdoor movie theater. This is a new application and this event has not been held before. They are proposing to hold the event on the six acre site that was purchased for the Public Works Facility. The event is scheduled to be held on August 28, 2010. The temporary movie screen would be placed on the south end of the property and would face north. Vehicles would be parked in lines facing south to view the movie. The Fire Department will have two portable sanitation units on-site and will sell prepackaged concessions. In case of rain, an alternate date of September 18, 2010 has been set. The application was reviewed by Administration, Police and Public Works and approval is recommended with the condition that the applicant work with Public Works Superintendent Fahey regarding access to and from the event.

Councilmember Trost suggested that ample room be provided for lawn chairs. Councilmember O'Laughlin questioned whether two portable sanitation units were adequate for this event. Fire Chief Randy Koepp responded that he will research the ratio of units necessary for the event. Public Works Superintendent Fahey stated that required licenses will need to be obtained and police officers will need to be on hand for traffic control. Mayor Lies commented that the Fire Relief Association are not responsible for the costs associated with public safety officers. Councilmember Trost suggested that the members of the Fire Department provide traffic control as well. Councilmember Lange questioned whether the movie screen will be a distraction for motorists traveling along the Highway 169 corridor. Finance Director Meyer clarified that the application was submitted by the Fire Relief Association, and that a certificate of liability will be necessary.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve the Large Assembly Permit for Temporary Outdoor Movie Theater by the Belle Plaine Fire Relief Association with contingencies as follows: 1. submittal of traffic control and access plan, 2. certificate of liability for the event, and 3. licensing rental agreement regarding "rain out." ALL VOTED AYE. MOTION CARRIED.

8.6. Resolution 10-048 Approving Access Easement for Riverview Park and Authorizing Mayor and City Administrator to Execute Agreement.

Mayor Lies referenced a memo dated April 5, 2010 from Community Development Director Rosenfeld regarding access easement for Riverview Park.

Community Development Director Rosenfeld explained that the City Council approved the services of Applied Ecological Services (A.E.S) on February 16, 2010 to provide plantings at Riverview Park. It was conveyed to the City Council that staff was working with Quest Development on an access easement to the park land. Currently there is no public access to this park land. Quest Development has provided the City a temporary access easement at this time. Staff is requesting Council approval of this easement in order to execute and record. If the easement is approved, City staff will meet with A.E.S to initiate the plantings at Riverview Park as soon as possible. The duration of the easement automatically expires on the earlier of the following: 1.) Installation of a publicly dedicated street providing access to the park property; 2) Approval from Quest Development of a final plat, or 3) Five (5) years from the effective date of the easement.

Councilmember Lange inquired about the five year term. Community Development Director Rosenfeld replied that it appears to be adequate, however, it can be extended. City Attorney Vose explained that the proposed easement is similar to a construction easement and that the City may request an extension from the grantor, if necessary.

MOTION by Councilmember Lange, second by Councilmember Underferth, to approve Resolution 10-048 Approving Access Easement for Riverview Park and Authorizing Mayor and City Administrator to Execute Agreement. ALL VOTED AYE. MOTION CARRIED.

8.7. Discussion on Request for Proposal for Consultants.

Mayor Lies referenced a memo dated April 5, 2010 from City Administrator Murphy regarding consultants.

City Administrator Murphy explained that Councilmember Coop asked for discussion regarding the appointment of consultants. The City currently appoints the following consultants on an annual basis: City Attorney – Kennedy & Graven, City Engineer – Bolton & Menk, Financial Advisor – Ehlers and Associates, Bond Counsel – Kennedy & Graven, and City Auditor – Abdo, Eick and Meyers, LLP. The City also contracts with Ridgeview Medical Services for Ambulance Coverage on a multi-year basis.

Councilmember Coop stated that in anticipation of budgeting restraints for 2011, he would like to have the Council consider seeking proposals for consultants in an effort of cost savings. Councilmember Coop stated that if the City Council is going to cut back on employees hours and wages, then it is only logical to consider cut backs in consultant expense as well. City Administrator Murphy explained that other cities typically seek proposals every five years. The City does not necessarily have to take the low bid as consulting is considered a “service.” Councilmember Trost suggested that the Council leave things as they are and noted the City Engineer does a great job for the city. Councilmember O’Laughlin concurred with Councilmember Trost, with the stipulation that the council and staff become judicious in utilizing the consultants in an effort to reduce costs. Councilmember Coop stated that the City may obtain more favorable rates if proposals are requested. Councilmember O’Laughlin commented that a majority of the consultants have not increased their rates over the past few years. Mayor Lies commented that he is very satisfied with the consultants’ performance and agreed with Councilmember O’Laughlin that there may be ways to reduce the utilization of consultants in a effort to reduce costs. Councilmember Lange commented that fees, such as the City Engineer, are relative to the amount of work performed.

It was the consensus of the council to direct staff to prepare a report of the consultants 2009 hourly and annual expenses.

8.8. Public Works Department.

1. Authorizing Staff to Proceed with Advertising to Seek Candidates for Seasonal Public Works Employees.

Mayor Lies referenced a memo dated April 5, 2010 Public Works Superintendent Fahey regarding seasonal employment.

Public Works Superintendent Fahey explained that the Public Works Department has used seasonal employees to help maintain the parks and other City property. In the past, the City has used a total of four seasonal employees; one part-time and three fulltime. With the amount of maintenance we have with our public property, Public Works Superintendent Fahey requested that Council consider keeping the number of seasonal employees at four for 2010. The salary would be at step 1 of the Public Works I scale. The Public Works Committee has made a recommendation to Council to seek four seasonal employees.

Councilmember Trost inquired as to the hourly pay for lifeguards and compared their life-saving skills to a Public Works I employee. He also suggested that the Public Works employees refrain from taking morning and afternoon breaks as a unit.

MOTION by Councilmember Underferth, second by Councilmember Lange, to authorize staff to advertise for candidates to fill the position of four seasonal employees; three at up to 40 hrs per week and one at up to 20 hrs per week, at the Public Works I pay scale. ALL VOTED AYE. MOTION CARRIED.

2. Authorizing Staff to Proceed with Obtaining Quotes for Portable Sanitation.

Mayor Lies referenced a memo dated April 5, 2010 from Public Works Superintendent Fahey regarding portable sanitation.

Public Works Superintendent Fahey explained that the City uses portable sanitation in parks and at community events. The cost for rental and weekly maintenance has risen significantly in the last couple of years. The City currently does not have a contract for services of this type and therefore, Public Works Superintendent Fahey recommended to advertise for quotes for a two or three year contract. The Public Works Committee recommended to seek quotes for the City's portable sanitation needs.

Councilmember Trost believed it was unnecessary to allow portable sanitation units on the premises year around. He said that the portable sanitation unit is not necessary at Century Park as it is a neighborhood park.

It was the consensus to have the Park Board review the need for portable sanitation units.

MOTION by Councilmember Lange, second by Councilmember Underferth, to direct staff to advertise for quotes to provide portable sanitation services. ALL VOTED AYE. MOTION CARRIED.

3. Authorizing Staff to Proceed with Obtaining Quotes for Refuse Collection for City Governmental and Park Facilities.

Mayor Lies referenced a memo dated April 5, 2010 from Public Works Superintendent Fahey regarding refuse collection.

Public Works Superintendent Fahey explained that the City has used Marks Sanitation/Waste Disposal in the past few years for the collection of refuse from all City property. With the changes that have taken place it would be appropriate to get quotes and a contract for the refuse collection of City property. The Public Works Committee had discussion on this subject and made a recommendation to Council to advertise for quotes to provide refuse collection on City property. Public Works Superintendent Fahey explained that the Chamber of Commerce will obtain a separate quote for service during Bar B Q Days.

MOTION by Councilmember Lange, second by Councilmember Underferth, to authorize staff to advertise for quotes to provide refuse collection on City property. ALL VOTED AYE. MOTION CARRIED.

4. Authorizing Motor Grader Repair.

Mayor Lies referenced a memo dated April 5, 2010 from Public Works Superintendent Fahey regarding motor grader repair.

Public Works Superintendent Fahey explained that the John Deere 670 motor grader is in need of major repair. The frame between the maul board and the front axle has cracked from fatigue. Attached with Public Works Superintendent Fahey's memo were two quotes for the repair. The Public Works Committee had discussion about repairing the cracks and the future use of the grader. The recommendation is as follows: repair the grader using the lowest quote; keep the grader and not use it for snow removal; use the grader for grading non-paved roadways, and replace the grader with a loader for snow removal and street maintenance. The grader has been on the Public Works CIP plan for replacement but the purchase has been delayed because of budget concerns.

Mayor Lies questioned why not incur the higher cost for a more stable repair job. Public Works Superintendent Fahey explained that this unit will no longer be used for snow removal, thus there is no need to incur the higher cost for intensive repair.

MOTION by Councilmember Underferth, second by Councilmember Lange, to authorize the repair of the John Deere Motor Grader at a cost not to exceed $1,685.00. ALL VOTED AYE. MOTION CARRIED.

5. Resolution 10-049 Ordering Architectural Services to Carry the Project Forward Through Bidding for the Proposed Public Works Facility.

Mayor Lies referenced a memo dated April 5, 2010 from City Administrator Murphy regarding ordering architectural services for the proposed public works facility.

City Administrator Murphy explained that the Public Works Facility Committee recommended to the Committee of the Whole that architectural and engineering plans be prepared. The Committee of the Whole discussed the recommendation and requested that staff contact Oertel Architects to receive a proposal of what it would cost to prepare plans and specifications to the level that the project could be bid. Mr. Oertel has proposed the following prices: design development - $26,000; construction documents - $85,000; bidding - $5,000; and civil engineering - $16,000. The total estimated price would be $132,000. Oertel would provide the design development, construction documents and bidding. Bolton & Menk would provide the civil engineering.

Finance Director Meyer explained that the costs for architectural and engineering services will be included in the bond if the project moves forward. Otherwise, the funds will be expended as a spend-down from the general fund. City Engineer Duncan explained the figure listed for civil engineering was not submitted by Bolton and Menk.

Councilmember Lange asked whether the City should seek quotes from other architectural firms as a cost comparison. Mayor Lies commented that he believes that it would not result in a cost-savings. Councilmember Trost stated he is against proceeding with the construction of a public works facility. Mr. Harold Edberg, a member of the audience, questioned why the council would not consider bidding the architectural services.

MOTION by Councilmember Lange, second by Councilmember Underferth, to approve Resolution 10-049 Ordering Architectural Services to Carry the Project Forward Through Bidding for the Proposed Public Works Facility. Mayor Lies VOTED AYE. ALL OTHERS VOTED NAY. MOTION FAILED.

MOTION by Councilmember Underferth, second by Councilmember Lange, to direct staff to proceed with request for proposals for architectural and engineering services for the proposed public works facility. ALL VOTED AYE. MOTION CARRIED.

9. ADMINISTRATION.

9.1. Upcoming Meetings.
1. Public Safety, 3:30 p.m. Wednesday, April 7.
2. EDA, 5:00 p.m., Monday, April 12.
3. Planning Commission, 7:00 p.m., Monday, April 12.
4. Park Board, 6:00 p.m., Tuesday, April 13.
5. Design Committee, 5:00 p.m., Monday, April 19.
6. Board of Equalization and Appeal, 5:30 p.m. Monday, April 19.
7. City Council, 6:00 p.m., Monday, April 19.

The council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Lange, second by Councilmember Underferth, to adjourn at 7:36 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary