BELLE PLAINE CITY COUNCIL
REGULAR SESSION
APRIL 19, 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 19, 2010 at 6:12 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 Attorney Bob Vose and Video Recording Operator Beth Dempsey.

3. APPROVAL OF AGENDA.

MOTION by Councilmember Underferth, 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 April 5, 2010.
4.2. Work Session Minutes of March 22, 2010.
4.3. Arbor Day Proclamation.
4.4. Authorizing Rental Agreement between the City and John Deere/Ag Power Enterprises, Inc. for Gator Rental for 2010.
4.5. Authorizing Participation in the 2010 Chevy Youth Baseball Program.
4.6. Calling for a Public Hearing for a Proposed Amendment to the Sign Ordinance Relating to Election Signs.

MOTION by Councilmember Trost, second by Councilmember Underferth, to approve the consent agenda as follows: 4.1. Regular Session Minutes of April 5, 2010, 4.2. Work Session Minutes of March 22, 2010, 4.3. Arbor Day Proclamation, 4.4. Authorizing Rental Agreement between the City and John Deere/Ag Power Enterprises, Inc. for Gator Rental for 2010, 4.5. Authorizing Participation in the 2010 Chevy Youth Baseball Program, and 4.6. Calling for a Public Hearing for a Proposed Amendment to the Sign Ordinance Relating to Election Signs. ALL VOTED AYE. MOTION CARRIED.

5. DEPARTMENT REPORTS.

5.1. Ambulance Department.

Ridgeview Ambulance Manager Doug Sweeney was unable to attend. The Council acknowledged receipt of the Ambulance Department report.

5.2. Fire Department.

Fire Chief Randy Koepp was present. The Council acknowledged receipt of the Fire Department report.

5.3. Police Department.

Police Chief Tom Stolee was present. Councilmember Coop commented on the success of the recent public cyber/internet information meeting conducted by the Police Department. The Council acknowledged receipt of the Police Department report.

5.4. Community Development Department.

Community Development Director Trisha Rosenfeld was present. Mayor Lies requested notice of the upcoming visits to local businesses for the business retention/expansion survey. The Council acknowledged receipt of the Community Development Department report.

5.5. City Administration Report.

City Administrator David Murphy was present. Councilmember Trost did not agree with the survey results of Center Point Energy. He inquired about the lack of street lighting near Oakcrest Elementary School. Councilmembers O'Laughlin and Trost commented that Belle Plaine is not being adequately represented at certain County meetings. The Council acknowledged receipt of the City Administration report.

6. PUBLIC FORUM.

Alex Langley, 800 East State Street, supported the Coborns project and encouraged the City Council with the process in allowing Coborns to proceed with development. He presented the Council with a petition that contained eight signatures of property owners in his neighborhood that also support the Coborns project.

Lori Otto, 6123 East Main Street, expressed concern for pedestrian safety near the area of the proposed Coborns development near the intersection of East Enterprise Drive and Hickory Boulevard.

Renee Schultz, 617 East Main Street, expressed concern for the difficulty in pedestrian crossings along Main Street.

7. PUBLIC HEARINGS.

7.1. Preliminary Plat for Diversified Business Park Third Addition. The City Council will receive and consider public comment on a request by Oppidan, Inc. and CLC Development, Inc, for preliminary plat approval for Diversified Business Park Third Addition, to allow for retail development located near the northwest corner of Enterprise Drive and Hickory Boulevard, and east of Diversified Business Park Second Addition.

Mayor Lies referenced a memo dated April 19, 2010 from Community Development Director Rosenfeld regarding a request for approval of a preliminary plat for Diversified Business Park Third Addition.

Community Development Director Rosenfeld explained that Oppidan Inc. is requesting the review of the preliminary plat for the retail center of Outlot A of Diversified Business Park Second Addition. The applicant is proposing a 6,500 square foot multi-tenant retail building, with McDonald's in 3,000 square feet, and the balance for individual tenant(s). The zoning classification for this site is I-C, Industrial Commercial. The proposed development is compliant with the Comprehensive Plan. This parcel was platted with Diversified Business Park First Addition in 2004. The property was subdivided with the Coborn's development as an outlot and this plat has not yet been filed. The City Council approved and extension to the filing of the plat to June 15, 2010. The site is currently vacant and relatively flat. Outlot A of Diversified Business Park Second Addition consists of 1.023 acres. The proposed Coborn's Superstore is to the west and south of this development, with vacant land to the east, guided as Highway-Commercial.

Oppidan has indicated the shared access aisle with the property owner to the east will remain private and have no public participation or maintenance. As a condition of the approvals for the Diversified Business Park Second Addition (Coborn's), a temporary construction easement will be necessary for construction grading. A permanent access easement will be necessary for access to the adjacent properties. The boundaries of the easement will need to be clearly delineated on the site plan and easement documents. The traffic impact study was completed for the Coborn's development. The traffic study completed for that development assumed the second phase of this development, the retail center, was only retail/office. The traffic study will need to be revised to determine what the impact of McDonalds will have on the traffic to the area. This will be required as part of the preliminary plat application. The applicant is aware of this and indicated to staff they are already working on having the study updated. However, the revised traffic study has not been submitted to the city as of the time of this report. Staff recommends the traffic study is submitted prior to the City Council's review and action on this application.

MnDOT has indicated that comments from the Diversified Business Park Second Addition plat are applicable to this application as well. They have nothing new to add to their comments. Scott County has verbally indicated to staff they do not have additional comments regarding this application, with the exception they would like to review and comment on the revised traffic study.

As a condition of the concept plan approval for this proposed development, the Planning Commission recommended conditional approval of the concept plan to the City Council with the understanding that the internal traffic circulation is reconfigured prior to the preliminary plat submittal. The applicant has reconfigured the site and is proposing the current layout.

The proposed 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 53 standard spaces plus 2 handicapped spaces for this entire development. Based on what is currently represented, the applicant will have to request a reduction to the required amount of off-street parking for this development. The requested reduction would be part of the Conditional Use Permit application. The presumed reduction would be to allow for 16 less standard parking spaces from the requirements. Joint facility parking may also be reviewed with the application for a conditional use permit. Also note, four of the 53 parking spaces are located on the adjacent Coborn's development. The proposed acreage is approximately one acre, therefore the park dedication fees for this development would be $2,395 per acre. The City Engineer prepared comments dated March 31, 2010 and were included in the Commissioners' packets.

The Planning Commission reviewed the request at the April 12 meeting. Paul Tucci, Oppidan, and the property owner, Leroy Chard, were present at the meeting. There was much discussion regarding the circulation on the site, stacking in the drive thru lane, where the traffic enters and exits the drive thru lane, how the access to the site and drive thru lane are configured and could possibly be modified, parking stalls and inaccessibility to some of the stalls. Most of this detail can be worked out prior to the site plan approval. All Commissioners voted in favor of approving the preliminary plat application with the following conditions: 1) Compliance with all engineering comments from Bolton & Menk dated March 31, 2010, 2) Compliance with comments from Scott County and MnDOT and 3) The revised traffic study is submitted prior to the City Council review and action.

Mayor Lies opened the public hearing at 6:37 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Lange, second by Councilmember Underferth, to close the public hearing at 6:38 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Lange questioned whether vehicles can be prohibited from turning right as they exit the McDonald's drive-thru lane, perhaps constructing a berm or wall. City Engineer Duncan explained that it will need a closer look at the site plan level.

The Mayor recessed the meeting at 6:38 p.m. and reconvened at 6:50 p.m.

Councilmember Trost commented that the Planning Commission discussed shifting the McDonald's site to the west but the applicant preferred the TH169 visibility. Councilmember Trost inquired about the location of the sidewalks and future trail. He favors a future traffic light near the Hickory and County Road 64 intersection for pedestrian safety. Councilmember Lange inquired about the trail cost. Community Development Director Rosenfeld explained that details can be addressed in the upcoming site plan review and conditional use permit. Community Development Director Rosenfeld reported the traffic study was submitted to the City on April 16, 2010 and includes the McDonald's site. She also explained that the trail issues can be addressed with the development agreement.

7.1.1. Resolution 10-051 Granting Approval of Preliminary Plat for Diversified Business Park Third Addition.

MOTION by Councilmember Underferth, second by Councilmember Coop, to approve Resolution 10-051 Granting Approval of Preliminary Plat for Diversified Business Park Third Addition. ALL VOTED AYE. MOTION CARRIED.

7.2. Conditional Use Permit. The City Council will receive and consider public comment on a request by FMS Hospitality, Inc. for a conditional use permit to allow a U-Haul dealership at 315 South Walnut Street, in the B-2, Highway Commercial District.

Mayor Lies referenced a memo dated April 19, 2010 from Community Development Director Rosenfeld regarding a request for a conditional use permit.

Community Development Director Rosenfeld explained that the property owner at 315 South Walnut Street has submitted an application for a Conditional Use Permit to allow the operation of a rental business. The primary use of the property is a motel business, Belle Plaine Motel. The proposed rental business is a U-HAUL moving truck and trailer rental. The rental business will be a conditional use accessory to the primary use, a motel. The zoning classification for this site is B-2, Highway Commercial District. The zoning ordinance indicates under conditional uses the following: *Accessory enclosed retail, rental or service activity other than allowed as a permitted use or conditional use within this Section.* Currently the property is functioning as a motel with motel buildings and parking lot. The property owner has already parked the rental trucks and trailers on the grass to the south of the hotel. The existing parking location of the rental trucks and trailers is not compliant with City Code. The proposed rental business will not include any alterations to the motel building, nor does it include the construction of a new structure. The property owner has indicated the largest sized rental truck will be under 5 tons/per axle. The Zoning Ordinance indicates that d*riveways and stalls shall be surfaced with asphalt or concrete. The Ordinance further states all open, off-street parking shall have a perimeter curb barrier around the entire parking lot; said curb barrier shall not be closer than five (5) feet to any lot line.* The current parking lot does not include parking space for the proposed rental business. The Belle Paine Motel meets the parking requirements for the motel with 19 parking spaces on the property. According to the City Code Section 1107.12 SUBD 9, the proposed rental business will require City Council to determine the appropriate number of parking spaces for the rental business.

The Planning Commission reviewed the request at the April 12 meeting. The Commissioners agreed not to require the applicant to add any additional surfaced parking areas and to utilize the current parking area for the motel. They also recommend that it is not necessary for the applicant to add additional screening to the property. The Commissioners voted in favor of approving the Conditional Use Permit, with the following condtions: 1) Applicant provides a parking plan with sufficient access and circulation for the rental trucks and trailers, 2) The Belle Plaine Fire Chief reviews the parking plan submitted for a appropriate fire protection access on the site, and 3) A separate sign permit shall be required for all signs posted on the property.

Mayor Lies opened the public hearing at 7:10 p.m. and asked for public comment. There was no response.

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to close the public hearing at 7:11 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Lange commented that it may be difficult for the Belle Plaine Motel to remain under the maximum number of four units/equipment allowed at the site. He also inquired about the non-screened area. Community Development Director Rosenfeld explained that the trucks were previously parked on the non-paved, non-screened area and now the vehicles will be parked on the paved parking lot. The Planning Commission recommended a maximum of only two truck and two trailers by U-Haul be allowed on site. Shawn Millard, representative of U-Haul, explained that he has the capability to control inventory and any units over four will be moved to a neighboring city.

7.2.1. Resolution 10-052 Conditional Use Permit for the Belle Plaine Motel to Allow U-Haul Dealership.

MOTION by Councilmember O'Laughlin, second by Councilmember Coop, to approve Resolution 10-052 Conditional Use Permit for the Belle Plaine Motel to Allow U-Haul Dealership, with a maximum of four units/equipment on site. ALL VOTED AYE. MOTION CARRIED.

8. BUSINESS.

8.1. Presentation of Claims.
1. Pay Estimate No. 1 by Chard Tiling for $401,009.61 for the 2010 TH169 South Frontage Road Project.

MOTION by Councilmember Trost, second by Councilmember Lange, to approve the Presentation of Claims and Pay Estimate No. 1 by Chard Tiling for $401,009.61 for the 2010 TH169 South Frontage Road Project. ALL VOTED AYE. MOTION CARRIED.

8.2. 2009 Audit Report – Brad Falteysek, Abdo, Eick & Meyers.

Mayor Lies welcomed Brad Falteysek from Abdo, Eick & Meyers LLP.

Brad Falteysek presented the City's 2009 annual audit and management letter. He explained that the City's 2009 audit process went smoothly and complimented the thorough work of Finance Director Dawn Meyer and Accounting Technician Amy Jirik. Mr. Falteysek reviewed each of the funds and advised on the GASB requirements. He noted the sewer fund revenues appear to be deficient and that users fees should be reviewed. The City has a healthy fund balance.

MOTION by Councilmember Trost, second by Councilmember O'Laughlin, accepted the 2009 Audit Report as presented. 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 19, 2010 from City Administrator Murphy regarding the tax abatement request from Coborns, Inc.

City Administrator Murphy explained that on March 15, 2010, the Council adopted Resolution No. 10-038 (the "Abatement Resolution") approving a tax abatement for a grocery store development located on certain property at the intersection of Hickory Boulevard and East Enterprise Drive. The abatement was granted for a term of ten years in a maximum amount of $243,580. City Administrator Murphy presented an updated version of the Abatement Development Contract between Coborns and the City. He referenced the lookback provision, which had been updated to include construction cost lookback.

Councilmember Trost stated he wants to go on record stating that Coborns, Inc. should be the applicant for the tax abatement request, not the developer, Oppidan, Inc.

MOTION by Councilmember Coop, second by Councilmember O'Laughlin, to approve Resolution 10-050 Approving Contract for Private Development with Coborns, Inc. Councilmember Trost VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

8.4. Request for Extension of Special Assessment for the 2009 Street Improvement Project.

Mayor Lies referenced a memo dated April 19, 2010 from Finance Director Meyer regarding a request for an extension of a special assessment.

Finance Director Meyer explained that the City has received a request from the property owner of 323 Church Street West, to extend the repayment term for 2009 Street Improvement Project special assessment. The request is to extend from seven (7) years to fourteen (14) years due to financial hardship. The City Council approved Resolution 09-115 certifying the final assessments for the 2009 Street Improvement Project on November 16, 2009. The assessments were certified for a term of seven (7) years with an interest rate of 4.25%. The original assessment for the property located at 323 Church Street West is $10,138.75. The annual principal and interest payment for the special assessment is $1,723.74. Finance Director Meyer noted the property owners, Ryan and Angelina Gorman were present.

Ryan Gorman, 323 West Church, explained the special assessment increased the escrow amount for his mortgage by $200 per month and he finds this extra payment to be a financial hardship.

Councilmember Lange commented that if the City extends the term of the special assessment for this request, the City will have to grant approval of all requests. He questioned whether a 10-year term as compared to a seven-year term would benefit property owners. Councilmember Coop noted the actual increase for the property owner is $143.62 per month, however, there is an initial gap to fulfill the escrow requirement. Councilmember Coop asked if there were any State or County assistance for cases such as this. Finance Director Meyer explained there is a State Statute allowing for hardship and deferral for persons over the age of 65, disabled persons and those in the military. Councilmember Coop asked if the City can implement its own policy for hardship. City Attorney Vose responded that the City may implement a policy, but expressed concern for the perimeters and guidelines beyond the State's requirements for deferrals. Finance Director Meyer explained that the City could implement a policy specific to the 2009 Street Improvement Project and that all requests would have to be treated identically. Councilmember Trost asked whether the City would also include deferments and extensions for property owners who have special assessments from past street improvement projects as well. If so, then the City will be responsible for much higher costs associated with each project. Mayor Lies noted that this request may involve a policy change. Councilmember O'Laughlin suggested this issue be tabled and discussed further at a work session.

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to TABLE action on the request for extension of special assessment for the 2009 street improvement project until the work session on April 26, 2010. ALL VOTED AYE. MOTION CARRIED.

8.5. Resolution 10-055 Adopting the Scott County All Hazard Mitigation Plan.

Mayor Lies referenced a memo dated April 19, 2010 Police Chief Tom Stolee.

Police Chief Stolee explained that Scott County Emergency Management Director Chris Weldon has presented the completed Multi-Jurisdictional All Hazards Mitigation Plan with the anticipation that it will be adopted individually by all cities. The City of Belle Plaine has participated in the hazard mitigation planning process with Scott County under the Disaster Mitigation Act of 2000. The Act establishes a framework for the development of a multi-jurisdictional County Hazard Mitigation plan. The Act as part of the planning process requires public involvement and local coordination among neighboring local units of government and businesses. The Scott County plan includes a risk assessment including past hazards, hazards that threaten the County, an estimate of structures at risk, a general description of land uses and development trends. The Scott County plan includes a mitigation strategy including goals and objectives and an action plan identifying specific mitigation projects and costs. The Scott County plan includes a maintenance or implementation process including plan updates, integration of the plan into other planning documents and how Scott County will maintain public participation and coordination. The plan has been shared with the Minnesota Division of Homeland Security and Emergency Management and the Federal Emergency Management Agency and they have approved it contingent on the formal adoption of the plan by all Scott County cities, townships and Board of Commissioners. The Scott County All Hazard Mitigation Plan will make the county and participating jurisdictions eligible to receive Federal Emergency Management Agency (FEMA) hazard mitigation assistance grants. Police Chief Stolee acknowledged the work of Councilmember O'Laughlin, the former Scott County Emergency Management Director, in the preparation of the Plan.

Councilmember O'Laughlin commented that the Scott County All Hazard Mitigation Plan will serve as an important disaster tool for the City and Scott County. He endorsed the adoption of the Plan.

MOTION by Councilmember Underferth, second by Councilmember Coop, to approve Resolution 10-055 Adopting the Scott County All Hazard Mitigation Plan. ALL VOTED AYE. MOTION CARRIED.

8.6. Resolution 10-053 Authorizing the City Administrator to Proceed with Seeking Request for Proposals for Architectural and Engineering Services for the Proposed Public Works Facility.

Mayor Lies referenced a memo dated April 19, 2010 from City Administrator Murphy regarding request for proposals for architectural and engineering services for the proposed public works facility.

City Administrator Murphy explained that at the council meeting on April 5, 2010, the City Council defeated Resolution 10-049 Ordering Architectural Services to Carry the Project Forward Through Bidding for the Proposed Public Works Facility with a 1-5 vote. The Council then voted to direct staff to proceed with request for architectural and engineering services. The civil engineering portion would be performed by Bolton & Menk. The Public Works Facility Committee would review the proposals and possibly interview the top candidates. City Administrator Murphy explained that there will be an invoice from Oertel architects for some of the additional work that has been requested.

Councilmember Trost commented that the concept plan for the proposed public works facility needs to be updated with changes as recommended by the City Council, such as shifting the facility closer to the right-of-way. City Engineer Duncan explained that the RFP can be worded such that site modifications are included in the proposal.

MOTION by Councilmember Lange, second by Councilmember Underferth, to approve Resolution 10-053 Authorizing Staff to Proceed with Request for Proposals for Architectural, Structural, Mechanical and Electrical Engineering Services and Interior Design to Carry the Project Forward Through Bidding for the Proposed Public Works Facility. Councilmembers O'Laughlin and Trost VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

8.7. Resolution 10-054 Awarding Bid for 2010 Seal Coat Project.

Mayor Lies referenced a memo dated April 19, 2010 from City Administrator Murphy regarding the bids for the 2010 seal coat project.

City Administrator Murphy explained that four bids were received and opened on April 8, 2010 for the 2010 seal coat project. The low bid is from Asphalt Surface Tech. Corp. for $88,443.62. The Engineer's estimate was $119,994.20. The City has budgeted $80,000 for the seal coat project for 2010, and has approximately $40,000 available in the capital improvement fund as a result of reduced seal coat amounts over the past few years.

MOTION by Councilmember Trost, second by Councilmember Lange, to approve Resolution 10-054 Receiving Bids and Awarding Contract for 2010 Seal Coat Project to Asphalt Surface Technologies Corporation for $88,443.62. ALL VOTED AYE. MOTION CARRIED.

9. ADMINISTRATION.

9.1. Upcoming Meetings.
1. Recycle/Clean Up Day, 8:00 a.m. to noon, Saturday, April 24.
2. Cablevision, 5:00 p.m., Monday, April 26.
3. Council Work Session, 6:00 p.m., Monday, April 26.
4. Public Works, 10:00 a.m., Tuesday, April 27.
5. Library Improvement Committee, 3:30 p.m., Tuesday, April 27.
6. City Council, 6:00 p.m., Monday, May 3.

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Lange, second by Councilmember Underferth, to adjourn at 8:28 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary