BELLE PLAINE CITY COUNCIL
REGULAR SESSION
JULY 16, 2012

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, July 16, 2012 at 6:00 p.m. in the council chambers of City Hall, 218 North Meridian Street, Belle Plaine, MN. Mayor Tim Lies called the meeting to order with Councilmembers Gary Trost, Cary Coop, Scott Schneider, Paul Chard and Michael Pingalore 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. Zachary Schoenecker served as the video recording operator.

3. APPROVAL OF AGENDA.

Councilmember Coop requested the addition of business item, “Update on County Road Traffic Issues.”

MOTION by Councilmember Trost, second by Councilmember Pingalore, to approve the agenda with the addition of business item “Update on County Road Traffic Issues.” ALL VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of July 2, 2012.
4.2. Resolution 12-079 Appointing Election Judges for the Primary and General Election.
4.3. Resolution 12-088 Accepting $1,500 Donation from the Chamber of Commerce for Pool Amenities.
4.4. Resolution 12-081 Granting Approval of a Non-Conforming Expansion Permit to Allow the Construction of a Deck at 714 West Main Street.
4.5. Resolution 12-092 Appointing Kathryn Murphy and Mikayla Beuch as Lifeguards for the Belle Plaine Community Pool.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the consent agenda as follows: 4.1. Regular Session Minutes of July 2, 2012, 4.2. Resolution 12-079 Appointing Election Judges for the Primary and General Election, 4.3. Resolution 12-088 Accepting $1,500 Donation from the Chamber of Commerce for Pool Amenities, 4.4. Resolution 12-081 Granting Approval of a Non-Conforming Expansion Permit to Allow the Construction of a Deck at 714 West Main Street and 4.5. Resolution 12-092 Appointing Kathryn Murphy and Mikayla Beuch as Lifeguards for the Belle Plaine Community Pool. 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.

Fire Chief Randy Koepp was unable to attend. 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 reported he will be meeting with the area townships regarding Fire Department funding. He also stated the City has received complaints from residents in reference to the City's mailing regarding the start date of the 2012 street improvement project. The Council acknowledged receipt of the City Administration report.

6. PUBLIC FORUM.

Mayor Lies asked for public comments.

Kevin Slack addressed the council from the perspective of a Belle Plaine Township resident rather than a board member. He provided a brief history of the proposed project and commented on the high expense associated with the proposed improvement to Belle Plaine Trail.

Certificate of Appreciation – Chamber of Commerce, Donation of $1,500 for Pool Amenities.

Mayor Lies presented Belle Plaine Chamber President Ashton Pankonin with a certificate of appreciation for the Chamber's donation of $1,500 for pool amenities.

7. PUBLIC HEARINGS.

7.1. After the Fact Variance. The City Council will consider public comment on an after-the-fact variance request by Chris Meyer, 108 Oakwood Drive, to allow an accessory structure to remain within the utility easement area located in the rear yard, in the R-1, Single Family, Low Density Residential District. Action was tabled by the Planning Commission. It is appropriate for the Council to continue the public hearing and table action until a recommendation is received from the Planning Commission.

Mayor Lies referenced a memo dated July 16, 2012 from Community Development Director Rosenfeld regarding the request for an after-the-fact variance by Chris Meyer.

Community Development Director Rosenfeld explained the property owner at 108 Oakwood Drive has requested the review of an after-the-fact variance to allow an accessory structure to remain in the drainage and utility easement, as well as in the bluff. The Planning Commission reviewed the request at the July 9 meeting and has tabled action in order to receive additional information. Staff, by recommendation from the Planning Commission, recommends the Council table action on this request until the Commission provided a recommendation for action. It is also requested the public hearing is open and continued until the recommendation comes forward by the Planning Commission.

Mayor Lies opened the public hearing at 6:13 p.m. and asked for public comment.

Chris Meyer, 108 Oakwood Drive, applicant, provided a brief summary of the issue to date. He explained that staff advised he would need a variance in order to allow a utility shed to remain in the drainage and utility easement. He recently learned that there may be an issue with a bluff setback as well. He said that it appears city staff is expending many hours on this issue and asked that the council make a decision this evening.

Councilmember Chard asked why the Planning and Zoning Commission tabled action. Community Development Director Rosenfeld explained the Commission requested information from Scott Soil and Water District regarding the impact of the shed located near the bluff line. Staff has offered to assist with the location of property pins. Councilmember Schneider said it is difficult to determine the setbacks and that the shed was on skids and had landscaping around the perimeter. Councilmember Coop asked if there was one shed on the property and if there was a shed on the property at 116 Oakwood Drive. Community Development Director Rosenfeld explained that 108 Oakwood Drive has one shed as does 116 Oakwood Drive. Councilmember Pingalore asked if there are many sheds located near the bluff line. Councilmember Trost said he doesn’t believe the shed would cause any erosion problems and suggested the shed remain in its location. Mayor Lies asked whether the council would like to make a decision tonight, or table action until the Planning Commission makes a recommendation. Community Development Director Rosenfeld explained the zoning ordinance states the city council is to take action after the Planning Commission has made a recommendation. Councilmembers Coop and Chard commented that it is appropriate to consider action after the Planning Commission makes its recommendation.

MOTION by Councilmember Chard, second by Councilmember Coop, to continue the public hearing and table action on the after-the-fact variance request by Chris Meyer, 108 Oakwood Drive, until a recommendation is received from the Planning Commission. ALL VOTED AYE. MOTION CARRIED.

7.2. Conditional Use Permit. The City Council will consider public comment on a request by Robbie Williams, 200 South Elk Street, Belle Plaine, MN for a conditional use permit for a special home occupation permit to allow auto repair services from the detached garage at 200 South Elk Street, in the R-3, Single and Two-Family Residential District.

Community Development Director Rosenfeld explained the property owner at 200 South Elk Street, Robbie Williams, is requesting the review of a Special Home Occupation/Conditional Use Permit to allow auto repair from the detached garage in the rear of the property. There are certain types of home occupation uses that are allowed by an administrative permit and those with higher intensity known as special home occupation uses require the approval of a conditional use permit. Proper notices have been sent to the surrounding neighbors and local newspaper. The applicant has indicated the hours of operation would be from 7am to 10 pm with no employees. There are tools that would produce noise, including an air compressor, air tools, welder and a torch. There will be no sales of products, and that he will not be parking vehicles on the street. The City has received two responses to the request from neighboring property owners who are against the approval of this request.

Mayor Lies opened the public hearing at 6:25 p.m. and asked for public comment.

Mayor Lies acknowledged the receipt of letters from William and Therese Renne and Raymond and Carol Mezara, who were opposed to the conditional use permit request due to sound, noise and traffic issues.

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

Councilmember Schneider explained there was a lengthy discussion at the Planning Commission meeting regarding the auto repair service in a residential district. The Commissioners added additional conditions to mitigate potential issues. He suggested the requirement of liability insurance for the business and also a hazardous waste generator license. Councilmember Schneider also commented that of the 30 residents that were sent notices, only two responded in opposition. City Attorney Vose commented that it is permissible for the City to add conditions such as those referenced by Councilmember Schneider. Councilmember Coop asked if the Police Department has received any complaints regarding the auto repair service at this address. Police Chief Stolee replied no. Councilmember Chard commented that air tools are noisy and disruptive to neighboring properties. He also questioned the safety hazards associated with a welding torch. Although he would like to see this as an incubator business and then grow into a business district location, he cannot support it due to potential noise levels. Councilmember Trost was opposed to the conditional use permit request. He said it is impossible for the doors to remain closed at all times and also questioned the appropriate ventilation for tools such as the welder torch. Councilmember Trost also commented that he would not like an auto repair service in his neighborhood. Mr. Robbie Williams explained that there is an exhaust fan in the garage. He doesn't plan on doing major work, such as engine overhaul, nor does he have a tire machine. He anticipates only minor use of the welder torch. Mr. Williams explained that he has been working on his own vehicles and those of family and friends as well. City Attorney Vose explained the City Code allows for conditions to be placed on special home occupation permits and that a public hearing may be scheduled after one year of issuance for the council to review the situation. Although the City can weigh in of conditions such as ventilation, it is not the enforcer of OSHA regulations. Councilmember Coop asked what happens in one year, if the City does not take any further action. City Attorney Vose explained that council action would be required and that any non-compliance could lead to revocation.

1. Resolution 12-085 Special Home Occupation Permit for Auto Repair Services at 200 South Elk Street.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve Resolution 12-085 Special Home Occupation Permit for Auto Repair Services at 200 South Elk Street, with the additional conditions that liability insurance is required for the business and applicant obtains a county hazardous waste generator license. Mayor Lies and Councilmembers Schneider and Coop VOTED AYE. Councilmembers Trost, Pingalore and Chard VOTED NAY. MOTION FAILED.

Councilmembers Trost, Chard and Pingalore stated their reason for denial is due to the auto repair service is not a compatible use in the R-3, single and two family residential district. Councilmember Pingalore also said that there no opportunity for the applicant to grow his business at this location. Councilmembers Pingalore and Trost also based their denial on the letters of opposition the City had received from neighboring property owners.

8. 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. Large Assembly Permit for Schmeckpeper Family Benefit, 5K Run, Heritage Square, August 4, 2012.

Mayor Lies referenced a memo dated July 16, 2012 from City Administrator Murphy regarding the large assembly permit request.

City Administrator Murphy explained that Lisa Mathwig has made an application to hold a 5K run to benefit the Schmeckpeper family who lost their home due to the recent storm. The event would be held from 7 a.m. to 1 p.m. with the race starting at 9 a.m. Police Chief Stolee, Public Works Superintendent Fahey and City Administrator Murphy have reviewed the application and recommend approval. A copy of the application, route and event sign-up sheet were included with City Administrator Murphy's memo.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve the large assembly permit for the Schmeckpeper Family Benefit, 5K Run, Heritage Square on August 4, 2012. ALL VOTED AYE. MOTION CARRIED.

8.3. Resolution 12-086 Approving On-Sale Intoxicating Liquor License for Sparetime Tavern.

Mayor Lies referenced a memo dated July 16, 2012 from City Administrator Murphy regarding an on-sale intoxicating liquor license for Sparetime Tavern.

City Administrator Murphy explained the owners of Sparetime Tavern have met with a representative from the State Liquor Licensing Board and has requested to amend his license application to on-sale intoxicating liquor license from a strong beer license. The application for both licenses are the same and the State does not distinguish between the two. The public hearing requirements have been met and the applicant meets all requirements. The license if approved would go into effect immediately.

Councilmember Trost commented on the City Ordinance prohibiting minors in liquor establishments. Police Chief Stolee said he has met with the applicant, who is aware of the regulations.

MOTION by Councilmember Coop, second by Councilmember Chard, to approve Resolution 12-086 Approving On-Sale Intoxicating Liquor License for Sparetime Tavern. ALL VOTED AYE. MOTION CARRIED.

8.4. Belle Plaine Chiropractic, 200 West Main Street.

Dr. Todd and Connie Meeker were present.

Mayor Lies referenced a memo dated July 16, 2012 from Community Development Director Rosenfeld regarding a non-conforming expansion permit and site plan request by Belle Plaine Chiropractic.

Community Development Director Rosenfeld explained Belle Plaine Chiropractic, located at 200 West Main Street, is planning to demolish the existing building and build new. This action requires a site plan review. Also requested is the review of a non-conforming expansion permit to allow the new building to be constructed in the same location as the existing building, encroaching the western property line setback. Setbacks for commercial building in the Central Business District allow for the primary structure can be located on the property line on both sides and the front property line. However, as this property is adjacent to a residential use, the setback requirements require the building to be set back 20 feet from the western property line. The applicant is requesting the review of a non-conforming expansion permit (NCEP) to allow the new building to be placed in the same location as the existing building, which is on the western property line. The new building will be larger than the existing building. It is proposed to be located on the front property line and approximately one and a half feet (1.5') from the eastern property line. The building will be situated over 70' from the rear property line. The requirement is only 20' from the rear property line. The proposed building elevations have been reviewed by the Design Committee. When the applicant has finalized colors, the Design Committee will review again, as well as the historic value of the building. The proposed design of the new building meets city design standards for the central business district.

1. Resolution 12-082 Granting Approval of a Non-Conforming Expansion Permit to Allow the Construction of a New Building at the Setback of the Current Structure.

MOTION by Councilmember Coop, second by Councilmember Trost, to approve Resolution 12-082 Granting Approval of a Non-Conforming Expansion Permit to Allow the Construction of a New Building at the Setback of the Current Structure. ALL VOTED AYE. MOTION CARRIED.

2. Resolution 12-083 Granting Approval of a Site Plan for 200 West Main Street.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve Resolution 12-083 Granting Approval of a Site Plan for 200 West Main Street. ALL VOTED AYE. MOTION CARRIED.

3. Resolution 12-089 Approving Loan Request by Belle Plaine Chiropractic for Funds from the Revolving Loan Fund.

Community Development Director Rosenfeld explained the Belle Plaine Chiropractic, owned by Dr. Todd and Connie Meeker, has requested the review of a loan application from the EDA's revolving loan fund account in the amount of $140,000. The property owners will be demolishing the existing building at 200 West Main Street and constructing a new building. The new building will be nearly double the size of the existing building. The detached garage will remain on the property; however it will receive a facelift during construction. The property owner has provided the city with the necessary application materials to support the application, with the exception of the appraisal summary. This will be needed prior to any paperwork being finalized. The RLF policy indicates the applicant needs to be approved for a matching amount from a primary lender. The applicant has provided a statement from their lender, approving them for a loan in the amount of $280,000. The EDA reviewed this request at the July 9, 2012 EDA meeting. All members were in favor of approval of the loan request. The Commissioners considered job requirements for the loan, however decided not to have this part of the agreement. The EDA recommends that the City Council approve the $140,000 loan to Belle Plaine Chiropractic. The EDA would like to see a report in one year, from the date the new clinic opens, of the new jobs that have been created. The applicant indicated to the EDA they will be creating a total of approximately five (5) full and part-time jobs at the onset of the new clinic opening. The EDA felt this reporting requirement would not be part of the loan agreement. The term would be 10 years with an interest rate set at 2% below the prime interest rate as of the date of July 16, 2012. If approved by the City Council, staff will work with legal counsel to prepare a loan agreement, mortgage and promissory note for execution by the EDA and the applicant. Because the loan is in an amount of less than $150,000, it is not considered a business subsidy and a public hearing and a formal business subsidy agreement will not be required. However, the Business Subsidy Act does require that the City and EDA's business subsidy criteria be considered when approving the loan.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 12-089 Approving Loan Request by Belle Plaine Chiropractic for Funds from the Revolving Loan Fund. ALL VOTED AYE. MOTION CARRIED.

8.5. Resolution 12-090 Belle Plaine Trail Maintenance Agreement with Belle Plaine Township.

Mayor Lies referenced a memo dated July 16, 2012 from City Administrator Murphy regarding proposed improvement to Belle Plaine Trail.

City Administrator Murphy explained that staff has reviewed the direction given by City Council regarding the paving of Belle Plaine trail and consolidated it into a proposed agreement to be presented to Belle Plaine Township. The agreement is included in your packet and the substantive points are as follows: $65,000 payment from Township when agreement is executed (removed provision submitted by Township that payment is made after work is completed and reviewed by town engineer), City will pave all of BP Trail and assume maintenance for 20 years but does not annex the roadway, Township will maintain gravel sections of Kittson Blvd and Jason Avenue for 20 years, City's obligation ends sooner if BP Trail is closed and Townships obligation ends if the gravel sections are paved, City has the right to post BP Trail for weight/speed, and Township has right to post gravel portions of City streets for weight/speed. The proposed agreement has not been sent to Belle Plaine Township at this time. It is important to have the City Council in support of the agreement prior to its official presentation to the Township. The bid is valid until July 27, 2012, at which time, the City must sign the agreement for the full project, a portion of the project or reject the bid. The Council has previously voted to award the bid for the portion of the project that is in the City limits. Absent any movement on the remainder of the project, the contract will be signed prior to expiration for the City's portion only. It is important to note that other options previously discussed by Council are still available such as agreeing to annexing the entire road right of way or to do nothing and leave the road as is.

Mayor Lies asked whether the City should consider a longer maintenance term as expressed by Belle Plaine Township resident Kevin Slack during the public forum. In reference to the expense associated with gravel road maintenance, Councilmember Schneider said the adjacent property owners were taxed by the township as were other township residents, but there was no road maintenance for these folks. He questioned whether there funds should have been captured to help offset the improvement costs now. City Administrator Murphy commented that he believes the proposed agreement meets the requests made by the Township. Councilmember Schneider commented that he is opposed to the annexation of the road and the City's intent to post weight restrictions on the road. Councilmember Trost suggested the 20-year term for the maintenance agreement be removed and proceed without any year limitation. City Attorney Vose explained the Township had presented the 20-year term. Councilmember Trost suggested that maintenance of the gravel portion of First Street N.E. be included in the agreement. The Council discussed the proposed amount of $65,000 from the Township, and the engineering costs. Finance Director Meyer explained the payment meets the improvement costs, but does not allow for future maintenance costs. Councilmember Coop was opposed to the agreement and asked what happens if the Township does not approve the agreement. He asked what are the City options if the contractor refuses to sign the contract for the improvement project. City Engineer Duncan explained the City would most likely call on the bid bond for expenses. Mayor Lies inquired about the percentages in the agreement. City Attorney Vose explained that the agreement reflects a 46/54 split. Councilmember Pingalore said he supports the posting of weight restriction by the City. Public Works Superintendent Fahey explained that the City will post at the city limits, not on the township portion of the road. Councilmember Trost commented that farm equipment, food service and refuse haulers are exempt from the road weight restrictions. Township Treasurer Kevin Slack explained that he has concerns regarding the cost of this project, which he believes is disproportionate, and would like to see a longer maintenance agreement than 20 years. Councilmember Coop suggested the City take care of its own gravel roads and avoid the necessity for a maintenance agreement. He also suggested the improvement project include only that which is located within the city limits. Councilmembers Schneider and Pingalore commented that they are in favor of moving the project forward as it is necessary to get the road improved.

MOTION by Councilmember Trost, second by Councilmember Pingalore, to approve Resolution 12-090 Belle Plaine Trail Maintenance Agreement with Belle Plaine Township. Councilmember Coop VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

8.6. Resolution 12-087 Awarding Bid for the 2012 Chestnut Street Ravine Project.

Mayor Lies referenced a memo dated July 16, 2012 from City Administrator Murphy regarding the bid award for the 2012 Chestnut Street Ravine Project.

City Administrator Murphy explained the bids for the 2012 Chestnut Ravine Project were opened on July 10, 2012 and five bids were received. The bids were reviewed and calculated and the lowest responsible bidder is Chard Tiling and Excavating at $125,150.30 for the base bid and $91,821.10 for the alternate bid. City Engineer Duncan and Public Works Superintendent Fahey recommend adoption of the alternate bid. The alternate bid does not include the creation of a head pond.

City Engineer Duncan explained the alternate bid removes the head pond; only the lower pond remains. He believes the design will work adequately. Councilmember Schneider commented the Scott Soil and Water Districts supports the design.

MOTION by Councilmember Chard, second by Councilmember Coop, to approve Resolution 12-087 Awarding the Alternate Bid for the 2012 Chestnut Street Ravine Project to Chard Tiling at $91,821.10. ALL VOTED AYE. MOTION CARRIED.

8.7. Update on County Road Traffic Issues.

Councilmember Coop noted the lack of response from Scott County regarding the City's request to address a number of traffic issues within the City. He said he intends to attend the Scott County Board meeting on July 24, 2012 to obtain an update. Mayor Lies encouraged the council's attendance as well.

8.8. Schedule Budget Workshop.

The budget workshop was scheduled for 6:00 p.m. on Tuesday, August 21, 2012.

9. ADMINISTRATION.

9.1. Upcoming Meetings.
1. Park Board, 5:00 p.m., Monday, July 23.
2. City Council, 6:00 p.m., Monday, August 6.
3. EDA, 5:00 p.m., Monday, August 13.
4. Planning Commission, 7:00 p.m., Monday, August 13.
5. Primary Election, Tuesday, August 14.
6. Public Works, 11:00 a.m., Tuesday, August 14.

The council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Chard, to adjourn at 8:19 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary