

**BELLE PLAINE CITY COUNCIL
REGULAR MEETING
JULY 17, 2023**

1. PLEDGE OF ALLEGIANCE.

Mayor Woletz 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 17, 2023 at 6:00 PM in the council chambers of City Hall, 218 North Meridian Street, Belle Plaine, MN. Mayor Woletz called the meeting to order with Councilmembers Cary Coop, James Evans and Ryan Ladd present. Patricia Krings was not present.

Also present were City Administrator Meyer, Police Sergeant Vycital, Public Works Superintendent Otto, City Engineer Duncan, Finance Director Jirik, Community Development Director Smith Strack, Fire Chief Otto, Assistant Community Development Director/Building Inspector Gerold and City Attorney Vose. Police Chief Stier was present on zoom. Wanda Savage served as the video recording operator.

3. APPROVAL OF AGENDA.

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

4. PUBLIC FORUM. None.

**Anyone wishing to address the Council of the Whole must submit in writing the subject and intent of request by 3:00 PM on the Tuesday prior to the scheduled Council meeting. Maximum of three (3) minutes per speaker. No official action will be taken.*

No requests were submitted.

5. APPROVAL OF CONSENT AGENDA.

- 5.1. Regular Session Minutes of June 20, 2023.
- 5.2. Work Session Minutes of June 20, 2023.
- 5.3. Resolution 23-086 Adopting the Special Assessment for Delinquent Fire Bills.
- 5.4. Resolution 23-085 Approving Staff Changes for the Aquatic Center for the 2023 Season.
- 5.5. Resolution 23-087 Authorizing the City of Belle Plaine to Enter into a Contract Agreement with Critter Getters for Animal Control for 2023-December 31, 2026.
- 5.6. Resolution 23-088 Appointing Michael Sannes as Full Time Public Works Seasonal Employees for the 2023 Season.
- 5.7. Resolution 23-089 Accepting \$2,500.00 Donation from CenterPoint Energy for the Belle Plaine Police Department.

MOTION by Councilmember Coop, second by Councilmember Woletz, to approve the Consent Agenda as follows: 5.1. Regular Session Minutes of June 20, 2023; 5.2. Work Session Minutes of June 20, 2023; 5.3. Resolution 23-086 Adopting the Special Assessment for Delinquent Fire Bills; 5.4. Resolution 23-085 Approving Staff Changes for the Aquatic Center for the 2023 Season; 5.5. Resolution 23-087 Authorizing the City of Belle Plaine to Enter into a Contract Agreement with Critter Getters for Animal Control for 2023-December 31, 2026; 5.6. Resolution 23-088 Appointing Michael Sannes as Full Time Public Works Seasonal Employees for the 2023 Season and 5.7. Resolution 23-089 Accepting \$2,500.00 Donation from CenterPoint Energy for the Belle Plaine Police Department. ALL VOTED AYE. MOTION CARRIED.

6. DEPARTMENT REPORTS.

6.1. Ambulance Department. (Report Only)

Ambulance Director Burton was not present. The Council acknowledged receipt of the Ambulance Report.

6.2. Fire Department.

Fire Chief Otto was present. Otto highlighted the Fire Department Report and noted Bar-B-Q Days went well with approximately 10 incidents where the Fire Department members on duty were able to respond to. Otto explained staff received positive feedback on the Fire Department presence at the park.

Mayor Woletz inquired if there was a good turnout. Fire Chief Otto confirmed they helped with band-aids to lost children.

6.3. Police Department.

Police Sergeant Vycital was present. Vycital highlighted the Police Department Report and noted a smooth Bar-B-Q Days with no arrests inside the park and minor incidents outside the park. Vycital noted having the Fire Department Duty Crew eased some pressure off of the Police Department with their presence. Vycital explained the department has stepped up their community engagement with the implementation of many new programs partnered with Community Education.

Mayor Woletz gave a shout out to both the Police Department and the Fire Department for their help with Bar-B-Q Days. Woletz noted the clearance rate of 87% of the month of June. Sergeant Vycital confirmed the Police Department takes pride in keeping a high clearance rate.

6.4. Community Services Department. (No Report)

Community Services Director Koller was not present.

6.5. Community Development Department.

Community Development Director Smith Strack was present. Smith Strack highlighted the Community Development Director Report and noted ROSE Loans are still available and the City has received a couple of applications for the commercial construction signage and marketing funds that the Council approved last month. Smith Strack explained the first C of O for Prairie Gardens will be awarded soon.

Mayor Woletz inquired if Brecken Place is close to opening another building. Community Development Director Smith Strack explained they are working on the east side of Balsam. Woletz inquired on Dollar General. Woletz explained no applications have been received.

6.6. Public Works Department.

Public Works Superintendent Otto was present. Otto highlighted the Public Works Report and noted signage, road closures and parade detours for Bar-B-Q Days went well. Otto explained crew will spend the next couple of days cleaning up the park. Otto noted the entrance monuments are beginning construction.

Mayor Woletz thanked Public Works for the community help and inquired on the statues of the potholes. Public Works Superintendent Otto explained the crew continues to fill potholes and has focused on filling the big ones first and should be working road to road on the smaller ones soon. Woletz inquired on the street signs. Otto explained extensions for those needing to meet the new standard have been ordered and will be replaced soon.

6.7. City Engineer Department.

City Engineer Duncan was present. Duncan highlighted the City Engineer Report and noted the progress on the 2023 Improvement Project.

Mayor Woletz inquired if West Church Street is a soft opening. City Engineer Duncan confirmed West Church is in a soft opening for the feed store.

Councilmember Ladd inquired if the project is on schedule. City Engineer Duncan explained overall the project is slightly ahead of schedule and noted with the additional utility crew the underground utility is done on East Main.

Mayor Woletz explained he and staff met with block 91 residents and requested a status update. Public Works Superintendent Otto explained a plan has been set and some aspects were initiated today starting with the re-stake of the alley.

6.8. Administration Department.

City Administrator Meyer was present. Meyer highlighted the Administration Report and noted staff's recommendation would be to not participate financially with Scott County Historical. Meyer explained the City maintains two historic properties and has not participated in the past. Meyer explained she talked with Rick Krant who is on the Belle Plaine Historical Committee along with the Scott County Historical Committee.

7. PUBLIC HEARINGS.

7.1. Ordinance 23-03: Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of Cannabis Businesses. The City Council will receive and consider public comment on the proposed moratorium on the Operation of Cannabis Businesses.

Sergeant Vycital explained the Minnesota Legislature approved consumption and possession of small amounts of cannabis along with sale under MN Statutes, Section 152.027. Vycital explained the Office of Cannabis Management will handle licensing however the office will not be operational until January 1, 2025. Vycital explained this moratorium would be in effect until the State office is operation and noted the moratorium is not a ban just a pause until licenses are available and the City and State are able to get details to set up regulation.

Councilmember Evans inquired if the Council moves forward with the moratorium are we able to remove it if the City feels it has enough information and is ready to move forward. City Administrator Meyer confirmed the Council can remove the moratorium at any time.

Mayor Woletz clarified the moratorium is specific to cannabis businesses and does not affect the ability to be in possession of or growing of the eight plants as of August 1st. Woletz noted the moratorium also doesn't affect the sale of THC/CBD productions already in place. City Administrator Meyer confirmed the clarification. Woletz explained there are so many issues regarding the sale of the cannabis the city is putting a pause on sales for the time being. City Attorney Vose explained all cities placing a moratorium are using the same language with the broad term, which includes all businesses that go into producing but does not include the items listed or medical cannabis. Mayor Woletz explained the City is not against the cannabis and will continue to follow the guidelines set forth but the State.

Mayor Woletz opened the public hearing at 6:32 PM.

No one stepped forward.

MOTION by Councilmember Coop, second by Councilmember Evans, to close the public hearing at 6:32 PM. ALL VOTED AYE. MOTION CARRIED.

7.1.1. Approve Ordinance 23-03: Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of Cannabis Businesses.

MOTION by Councilmember Coop, second by Councilmember Woletz, to approve Ordinance 23-03: Interim Ordinance Authorizing a study and Imposing a Moratorium on the Operation of Cannabis Businesses. ALL VOTED AYE. MOTION CARRIED.

7.1.2. Resolution 23-090 Approving Summary Publication of an Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of Cannabis Businesses.

MOTION by Councilmember Coop, second by Councilmember Evans, to approve Resolution 23-090 Approving Summary Publication of an Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of Cannabis Businesses. ALL VOTED AYE. MOTION CARRIED.

7.2. Conditional Use Permit Outdoor Storage: 400 Main Street East. The City Council will consider public comment on a conditional use permit application submitted by Carol A. Tietz and the Tietz Trust. The conditional use permit, if approved, will authorize an outdoor storage area at property addressed as 400 Main Street East. A conditional use permit is required under Section 1107.08, Subd. 2(1) of the City Code pertaining outside storage of equipment, materials and inventory accessory to commercial uses.

Assistant Community Development Director/Building Inspector Gerold presented a slideshow to review the Conditional Use Permit for outdoor storage at 400 Main Street East. Gerold reviewed the proposed stipulations and recommendations from the Planning Commission.

Councilmember Ladd inquired on the 2020 Citation. Assistant Community Development Director/Building Inspector Gerold explained he believes the citation was for parking of vehicles on unimproved surface and an excessive amount of vehicles on the lot. Community Development Director Smith Strack confirmed the citation. Ladd inquired when the no parking on grass ordinance was initiated. Smith Strack explained she does not have that information in front of her. Ladd inquired when the 15-car rule was adopted. Smith Strack explained there is no 15-car rule the property owner was cited for parking on unimproved surfaces and had the option of only parking on improved surfaces or applying for a CUP. Ladd explained the property is a 40 year business and opines should be grandfathered in, the business tows for the City of Belle Plaine and has impounded vehicles along with vehicles waiting for parts and service. Ladd noted he believes the business has done a good job working with the City and cleaning up the property. City Attorney Vose explained in order to be grandfathered in something needs to be legal when it started and it can then continue after the code is changed.

Mayor Woletz explained the current system is a complaint based system and noted complaints were received since 2009. City Administrator Meyer explained in the electronic code enforcement system a complaint was shown and it was being addressed by the applicant. Meyer noted an additional code enforcement complaint in the electronic system in 2020. Meyer explained no paper files have been reviewed for additional complaints. Woletz explained he agrees with Councilmember Ladd to remove the 30 day limit as a car must sit for 45 days before it can be released, 15 of which is for official notification to the owner. Woletz recommends changing the allowance to 60 days. City Administrator Meyer noted the limit was cited as part of City Code. Community Development Director Smith Strack requested the Public Hearing be open before discussing conditions.

Mayor Woletz opened the public hearing at 6:55 PM and asked for public hearing.

Mic Puklich, the Tietz attorney stepped forward. Puklich explained Kenny Tietz is with him to speak on the matter. Puklich explained the subject property has been in operation since the late 1930's as an auto shop and in 1974 became a towing and auto repair shop and due to the continual use should be

grandfathered in. Puklich explained a reported complaint resulted in Mr. Tietz being fed up and told the officer to issue the citation.

Mr. Tietz explained the statement was not true the complaint came in mid-summer of 2020 and just before or after Christmas after towing 25 cars for snow removal he was told he was over the 15 car limit. Tietz explained out of the 25-26 cars towed, all but 2-3 were left at the end of the day. Tietz explained it is not fair as he is doing a business for the betterment of the Community.

Puklich explained in an attempted resolution the Scott County Attorney's Office recommended improving the property, which resulted in 26 conditions from the City. Puklich opines number 12 the 30 day limit even if a Belle Plaine ordinance violates State Statute. Puklich explained the City conditions will render Tietz operation difficult to do business and noted he is willing to fence in some of the area and willing to cooperate but it must be fair and reasonable. Puklich opined Tietz is not legally obligated to do anything with the use.

Councilmember Ladd requested the East side of the property be highlighted and noted the CUP stated no entrance from 420 which is public land. Ladd explained the lot is not fenced or signed and inquired why the applicant would not be able to enter from the East side. City Attorney Vose explained when the City owns public property they city can control parking for the City. Ladd opines access should be allowed from the east side.

Mayor Woletz noted the public hearing is open and requested a motion to close the public hearing.

MOTION by Councilmember Evans, second by Councilmember Coop, to close the public hearing at 7:04 PM. ALL VOTED AYE. MOTION CARRIED.

Mayor Woletz explained his concern is with the fence however if the applicant is willing to fence in a portion of the lot and follow the CUP he would be on board noting his request to move the 30 days limit to 60 days. Woletz explained non-licensed and non tagged vehicles would not be under the control of Mr. Tietz as he would not be able to get them. Sergeant Vycital concurred tags cannot be acquired without proof of insurance and vehicle registration.

Councilmember Evans explained he has many questions on the public parking lot, the gate and the 26 stipulations and noted he would like to bring back the topic for further discussion.

Councilmember Coop inquired if these are the same conditions that would be put on any other automotive repair place in the City. Community Development Director explained most of the conditions recommended by staff relate to what is being proposed and how it relates to code and outdoor standards or perceived questions in the future if not placed into effect along with the process going forward. Smith Strack explained administrative standards are in every conditional use permit issued and the number of them is for clarification on what is and what is not accepted. Smith Strack explained the applicant can come back for a variance however the City has not received an application for that noting the concrete slab is currently available for outdoor parking and noted a certain number of spots is required by City Code. Smith Strack noted shipping containers are not allowable fence material and set backs were called out in the conditions. Smith Strack explained staff was trying to be very specific and not overly burdensome. Smith Strack closed by noting zoning laws grandfathered in are up to the property owner to prove. Councilmember Coop inquired how long the property owner would have to comply and what would happen if they don't. Smith Strack explained the applicant has one year to establish use or ask for an extension if not done the City could revoke the CUP.

City Attorney Vose clarified the CUP if acted on before the one year would then run with the property and not need to be reviewed annually. Community Development Director Smith Strack confirmed the CUP would run with the life of the property or until the use changes.

Councilmember Ladd inquired if this is the same standard used for every other auto or car dealerships within the City. Community Development Director Smith Strack explained the Conditional Use is for outdoor storage. Ladd noted the business and the outdoor storage goes hand in hand. Smith Strack noted a CUP is not required for the principal use of the property rather the CUP is for an accessory outdoor storage. Ladd noted staff denied a storage unit even though it would be behind a fence. Smith Strack confirmed storage units are allowed for up to 180 days on any parcel and are to be temporary not a permanent use. Smith Strack explained code can be changed.

Mayor Woletz noted after rereading the 26 bullets only one is a stipulation for containment and noted everything else lines up with City ordinances. Councilmember Ladd noted the fence will affect the running of the business and the property owner wants access to the east side of the property through the public space. Woletz opined the parking lot is for public safety and Ladd opined it is for public use and is not fenced or signed. Woletz explained the Planning and Zoning Commission authorized the CUP. Ladd requested the action be tabled for further discussion with Councilmember Krings input. Woletz inquired input from Attorney Vose on what tabling would do.

Attorney Vose explained the issue is a land use application which is subject to a 60 day rule which would be subject to an extension by staff. Vose noted Council has made points not mentioned by the testimony from the applicant and would need to be heard from the applicant.

City Administrator Meyer explained if council wishes to take additional testimony the public hearing would need to be reopened.

Mayor Woletz opened the public hearing at 7:20 PM.

Mic Puklich stepped forward and noted the operational issues with a fence would be a burden. Puklich explained the issue is not about a fence but about a criminal charge for having too many vehicles and noted the applicant cannot function with eight vehicles. Puklich explained criminal charges were brought on by the City and this is the applicants effort to remedy the situation and operate a business. Puklich believes the property should be grandfathered in.

Ken Tietz stepped forward and testified he was told 15 cars were allowed on the property which was a number given from an areal photo from 2009. Tietz explained there is no way he can operate his business with 15 cars and noted the business has been in operation since the 30's with towing and repair in the 70's and he bought the business in August of 1984.

Councilmember Ladd inquired from staff where the 15-car rule came from. City Attorney Vose explained he has heard some parts of the fence are ok and others are not and requested if it was clear to everyone else what parts of the fence are amenable as part of the public hearing.

Mic Puklich explained the applicant would prefer to have the east side accessible and noted the North side of the property could have a gate to have access from both the north side and the west side of the property. Attorney Vose noted he hears the fencing all the way around is not a problem they just want to make access to the fenced area. Vose noted he wanted to make sure the applicant made that point publicly.

MOTION by Councilmember Coop, second by Councilmember Evans to close the public hearing at 7:28 PM. ALL VOTED AYE. MOTION CARRIED.

Councilmember Coop inquired if Councilmember Evans wants to table discussion. Councilmember Evans confirmed and noted he has questions on the gate and container. Mayor Woletz inquired if tabled what guidance is to be given to staff to bring back. Evans explained he would like to see discussion on a work session with discussion on the gate on the 420 side and container code. Coop inquired how does the 60 day rule for the City to take action work. Community Development Director Smith Strack explained MN

State Statute 1599 required the City act on a completed application within 60 days. Smith Strack explained if tabled a letter would be generated giving notice of the extension. Evans noted additionally he has questions on some of the language in the stipulations.

Councilmember Ladd inquired who came up with the 15 car rule and why the City is acting on a citation when no one knows where the 15 car rule came from. City Administrator Meyer noted if the Council wishes they can receive copies of the citation to see specifically what the citation was issued for.

Councilmember Evan inquired on the decorative wood on the storage container and how code relates. Community Development Director Smith Strack explained there are two different sections of code that relate to the subject one being fence code and the other being storage code.

7.2.1. Resolution 23-091 A Resolution Approving A Conditional Use Permit Providing For Accessory Outdoor Storage at 400 Main Street East.

MOTION by Councilmember Coop, second by Councilmember Ladd to table action.

City Administrator Meyer requested clarification for August 7th Work Session and Action on August 21st. Staff will have to be directed to issue an extension for an additional 60 days.

MOTION by Councilmember Ladd, second by Councilmember Coop to table discussion with an extension of 60 days notice to be sent with discussion at the August 7th Work Session and action to follow. ALL VOTED AYE. MOTION CARRIED.

8. BUSINESS.

8.1. Presentation of Claims.

- 8.1.1. Pay Request No. 5, BCM Construction, Inc. for Chatfield Commercial Park Project.
- 8.1.2. Pay Request No. 4, Ryan Contracting Co., for the 2023 Improvement Project.

Councilmember Evans inquired on the BCM payment. City Engineer Duncan explained it is a single and final paving payment.

Mayor Meyer inquired on the property appraisals charge. Community Development Director explained it looked at the Police Department Lot and the vacant parcels by Public Works.

MOTION by Councilmember Coop, second by Councilmember Woletz, to approve the reviewed claims as presented in the amount of \$482,066.88 and \$2,599,344.26. Councilmembers Coop, Woletz and Evans VOTED AYE. Councilmember Ladd VOTED NAY. MOTION CARRIED 3-1.

9. ADMINISTRATION.

9.1. Upcoming Tentative Meetings.

- 1. Downtown Music and Food Trucks, 4:30-8:00 PM, Wednesday, July 26. (At the City Hall Parking Lot)
- 2. Design, Monday, August 7, 5:00 PM
- 3. City Council, Monday, August 7, 6:00 PM
- 4. Work Session, Monday, August 7, 6:15 PM

The Council was reminded of the upcoming tentative meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Evans, to adjourn the regular session at 7:42 PM. ALL VOTED AYE. MOTION CARRIED.

Belle Plaine City Council
Regular Meeting
July 17, 2023
APPROVED

Page 8 of 8

Respectfully submitted,

Renee Eyrich
Recording Secretary