BELLE PLAINE CITY COUNCIL
REGULAR SESSION
AUGUST 16, 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, August 16, 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 and City Attorney Bob Vose. Finance Director Meyer also served as the Video Recording Operator.

3. APPROVAL OF AGENDA.

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to approve the agenda as presented. ALL VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of August 2, 2010.
4.2. Work Session Minutes of July 26, 2010.
4.3. Special Session Minutes of August 13, 2010.
4.4. Resolution 10-102 Authorizing Mayor and City Administrator to Execute Grant Agreement for Safe and Sober Project.
4.5. Resolution 10-048 A Modifying Language for Temporary Access Easement for Riverview Park.

Councilmember Trost requested consent agenda item "Resolution 10-102 Authorizing Mayor and City Administrator to Execute Grant Agreement for Safe and Sober Project" be moved to the business portion of the agenda.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to move "Resolution 10-102 Authorizing Mayor and City Administrator to Execute Grant Agreement for Safe and Sober Project" to the business portion of the agenda and approve the remaining consent agenda as follows: 4.1. Regular Session Minutes of August 2, 2010, 4.2. Work Session Minutes of July 26, 2010, 4.3. Special Session Minutes of August 13, 2010, and 4.4. Resolution 10-048 A Modifying Language for Temporary Access Easement for Riverview Park. 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 present. 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. Councilmember Trost inquired about properties he reported with code enforcement issues that were not listed on the report. Community Development Director Rosenfeld to investigate. The Council acknowledged receipt of the Community Development Department report.

5.5. City Administration Report.

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

6. PUBLIC FORUM.
Mayor Lies announced the public forum. There was no response.

7. PUBLIC HEARINGS.

7.1. Conditional Use Permit for 753 East Enterprise Drive. The City Council will consider public comment on a request by Matthew Smith, S.B. Enterprises, Inc., 1013 Scott Lane, Belle Plaine, MN for a conditional use permit as required in the B-2, Highway Commercial District to allow the operation of a wireless communications retail store at 753 Enterprise Drive, BP Commons retail center.

Mayor Lies referenced a memo dated August 16, 2010 from Community Development Director Rosenfeld regarding a conditional use permit request for a Verizon retail store.

Community Development Director Rosenfeld provided a summary PowerPoint presentation and explained that Matthew Smith, S.B. Enterprises, Inc. at 753 Enterprise Drive, has submitted an application for a Conditional Use Permit to allow the operation of a retail store in the B-2 Highway Commercial District. The applicant is proposing the addition of a Verizon Wireless store in the BP Commons establishment. The B-2 Highway Commercial zoning districts outlines “Retail Center” as a conditional use, therefore requiring the application review of a Conditional Use Permit for this use. The suite where the proposed retail store will be located has already been improved for occupancy. The applicant has indicated there will be very few modifications to the space and there will not be structural or exterior changes, with the exception of a sign. The proposed retail store will not include any alterations to the existing building, nor will it include construction of any new structures.

Mayor Lies opened the public hearing at 6:11 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 6:12 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Lange requested staff and the Planning Commission review a possible ordinance amendment to avoid the need for a conditional use permit for cases such as this.

1. Resolution 10-097 Conditional Use Permit to Allow the Operation of a Retail Communications Store at 753 Enterprise Drive.

MOTION by Councilmember Trost, second by Councilmember Underferth, to approve Resolution 10-097 Conditional Use Permit to Allow the Operation of a Retail Communications Store at 753 Enterprise Drive. ALL VOTED AYE. MOTION CARRIED.

7.2. Variance Request for 345 South Willow Street. The City Council will consider public comment on a request by Jeffrey Daniels, 345 South Willow Street, Belle Plaine, MN for a four foot side yard variance from Section 1105.07 to allow the construction of a deck to encroach the side yard setback in the R-3, Single and Two Family Residential District.

Mayor Lies referenced a memo dated August 16, 2010 from Community Development Director Rosenfeld regarding a variance request by Jeffrey Daniels at 345 South Willow Street.

Community Development Director Rosenfeld explained that Jeffrey Daniels has submitted an application for a variance to construct a deck that would encroach the side yard setback at 345 Willow Street South. This property is located on a corner lot and requires a 20 foot setback from the side property line. The applicant is requesting the deck to be located 16 feet from the side property line. The house is accessible from the side yard, which is adjacent to Raven Street West. The applicant is proposing a deck addition off of the home's side entrance. Community Development Director Rosenfeld referenced a memorandum from Kennedy and Graven, the City's legal counsel, dated July 23, 2010 regarding a Minnesota Supreme Court ruling against a variance granted by the City of Minnetonka. Community Development Director Rosenfeld encouraged the Commissioners to review the Zoning Ordinance to ensure the granting of variances meet all the criteria. The Planning Commission recommended denial of the variance request based on the lack of hardships found.

Mayor Lies opened the public hearing at 6:15 p.m. and asked for public comment.

Jeffrey Daniels, 345 South Willow Street, explained that he has owned the property for one year. He has made major improvements to the property and asked for council approval of a four foot variance to allow the construction of an entrance deck.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to close the public hearing at 6:18 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Trost questioned the address of the subject property as the house faces Raven Street, not Willow Street. He was in favor of the variance because he believes it is a minor request for a deck. Councilmember Trost stated he believes the information from the City Attorney regarding a recent Minnetonka Supreme Court ruling for a variance may have impacted the Planning Commission vote to deny the variance request. Mayor Lies commented that staff has been trying to tighten up on variances and to ensure a hardship exists for a variance approval. He noted the location of the house on the lot may qualify as a hardship in this case.

City Attorney Vose explained the City has standards in place. In order for an applicant to obtain a variance, he or she must prove hardship and show that "the property in question cannot be put to a reasonable use" without the variance.

Councilmember Trost stated that the deck is not harmful to anyone and he noted that no one spoke in opposition to the variance request at the public hearings. Councilmember Coop believes the location of the house on the lot causes a hardship for the property owner. Councilmember Trost commented the City of Minnetonka is considering changing variances to conditional use permits. City Attorney Vose explained that cities may change their setbacks or allow variances under the guise of a conditional use permit. He also suggested that the City could regulate setbacks according to unique lots, such as this one. Councilmember O'Laughlin commented that something should be done at the legislative level. He supported the variance request due to the location of the house as a hardship.

Mayor Lies recommended staff and the Planning Commission reviewed the zoning setback regulations and determine standards for unique lots.

1. Resolution 10-098 Denying Variance to Allow the Construction of a Deck at 345 South Willow Street.

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to deny Resolution 10-098 Denying Variance to Allow the Construction of a Deck at 345 South Willow Street.

Councilmember Trost asked why there was only a denial resolution, and not an approval version. Community Development Director Rosenfeld explained the Planning Commission recommended denial of the variance. Councilmember Coop asked about parliamentary procedure as the motion on the floor is to deny a denial. City Attorney recommended the City Council take no action on the denial resolution.

Councilmembers O'Laughlin and Underferth withdrew their motion and second.

Mayor Lies recommended approval of the variance and suggested that staff and the Planning Commission continue to research the issue of variances and review of the Zoning Ordinance.

MOTION by Councilmember Coop, second by Councilmember Underferth, to direct staff to prepare a resolution for approval of the variance as requested by Jeffrey Daniels at 345 South Willow Street. The resolution will be presented at the next City Council meeting on September 7, 2010. ALL VOTED AYE. MOTION CARRIED.

7.3. Variance Request for 1017 Provence Lane. The City Council will consider public comment on a request by Shawn Larson for an after-the-fact variance from Section 1109.06, Bluff Preservation, to allow the construction of a deck to encroach the rear yard setback in the R-1, Single Family District at 1017 Provence Lane. It is appropriate to continue the hearing and table action until a recommendation is received from the Planning Commission.

Mayor Lies referenced a memo dated August 16, 2010 from Community Development Director Rosenfeld regarding a variance request by Shawn Larson at 1017 Provence Lane.

Community Development Director Rosenfeld explained that Shawn Larson has submitted an application for an after-the- fact variance request for an existing deck that encroaches the bluff line setback at 1017 Provence Lane. This deck was constructed without a permit by the previous property owner. Mr. Larson is in the process of bringing his property into compliance, which will require either the removal of the portion of his deck encroaching the bluff line setback or the approval of the variance request to leave the deck in its current location. The zoning classification indicated for this site is R-1, Single Family (Low Density) Residential District. There is currently an 18 x 16 foot deck in the rear yard off the back of the house. With exception to the bluff setback, the deck meets all other building and zoning requirements. The top of the bluff has been located approximately 38 feet from the rear of the house. This has created a 22 foot bluff setback for the deck. The Bluff ordinance indicates this distance should not be less than 30 feet, therefore requiring the after-the-fact variance approval in order to allow the deck to remain in its current location. Community Development Director Rosenfeld reminded the Commissioners of the recent Minnesota State Supreme Court case against the City of Minnetonka. The Planning Commission noted the City has granted a previous variance to encroach into the bluff setback 15 feet in 2009 on Robert Circle. The Commissioners tabled action on the request until an opinion is received from the Scott County Natural Resources. The Commissioner requested the applicant to provide additional information in an effort to provide proof of hardship. It is appropriate for the Council to continue the public hearing until the Planning Commission is able to provide a recommendation to the City Council at a future meeting.

Mayor Lies opened the public hearing at 6:50 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Trost, second by Councilmember O'Laughlin, to continue the public hearing and table action on the after-the-fact variance request by Shawn Larson to allow an existing deck at 1017 Provence Lane until a recommendation is received from the Planning Commission. ALL VOTED AYE. MOTION CARRIED.

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. Resolution 10-100 Awarding Sealed Offer of Utility Shed Located at 706 South Meridian Street and Authorizing Movement of Structure.

Mayor Lies referenced a memo dated August 16, 2010 from City Administrator Murphy regarding sealed offers for utility shed.

City Administrator Murphy explained the utility shed was part of the Weckwerth property the City acquired for the CSAH 3 Interchange project. The shed was originally to be utilized by Public Works, but it has been determined that it will not be beneficial to the City's needs. An advertisement was placed for offers and two were received. Curtis Raddatz has submitted the high sealed offer and will be moving the shed into Belle Plaine Township.

Councilmember Trost stated that he was not pleased that the public notification for the utility shed was placed in the legal notices of the Belle Plaine Herald. He said many people were not aware of the City's intent to sell the utility shed. Councilmember Trost believed the City should have run a display ad instead and recommended the City deny all sealed offers and re-advertise.

MOTION by Councilmember Lange, second by Councilmember Underferth, to approve Resolution 10-100 Awarding Sealed Offer of Utility Shed Located at 706 South Meridian Street and Authorizing Movement of Structure. Councilmember Trost VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

The Mayor recessed the meeting at 6:54 p.m. and reconvened at 7:00 p.m.

8.3. Authorizing Staff to Proceed with Request for Proposals for Marketing Strategy Plan.

Mayor Lies referenced a memo dated August 16, 2010 from Community Development Director Rosenfeld regarding proposals for a marketing strategy plan.

Community Development Director Rosenfeld explained it was the consensus of the EDA to have staff prepare a draft Request for Proposal for consultant services to develop a marketing strategy with a branding component for the City of Belle Plaine. The RFP was prepared and presented to the EDA at their August 9, 2010 meeting. The EDA recommended to proceed with advertising the RFP for consultant services. The Marketing Strategy and Branding Plan is an action item in the Economic Development Plan that was completed in 2009 and adopted by both the EDA and City Council. This item was budgeted for 2010 as part of the EDA's marketing and consultant budget, and also to utilize a small portion of funds from the HRA account. It was assumed the City would budget in 2011 for implementation of the marketing strategy, while not increasing what is currently budgeted in the 2010 budget.

Mayor Lies inquired about the budgeted funds. Community Development Director Rosenfeld replied $8,000 has been set aside for the marketing plan. Implementation would be additional cost. Councilmember Trost was opposed to spending money on the marketing plan. He commented that marketing is done by real estate companies rather than the City. Mayor Lies commented that all businesses are affected by marketing in an effort to remain competitive. Councilmember Lange supported the marketing strategy. He said the City needs to keep moving forward, upgrading and updating. Councilmember Underferth supported the marketing pan. Community Development Director Rosenfeld explained a review of the City's logo will be included in the proposals. Councilmember Trost stated he would rather see the City help the existing businesses than trying to attract new business.

MOTION by Councilmember Lange, second by Councilmember Underferth, to approve the request for proposal and to direct staff to proceed to seek consultants to prepare a marketing strategy plan, including a branding component. ALL VOTED AYE. MOTION CARRIED.

8.4. Resolution 10-103 Authorizing Braun Intertec to Proceed with Hazardous Materials Assessment of the Old Fire Hall.

Mayor Lies referenced a memo dated August 16, 2010 from City Administrator Murphy regarding hazardous materials assessment of the old fire hall.

City Administrator Murphy explained that on August 2, 2010 the Council directed staff to obtain quotes to demolish the old fire hall located at 420 East Main Street. The first step in the process is to obtain a hazardous materials inspection on the property. The assessment is necessary for public entities. Two proposals were received, one from Braun Intertec and the other from American Engineering Testing Inc. Braun submitted a cost of $2,452 and AET submitted a cost of $2,650. Once the report is received, it will be included in the solicitation for demolition of the building. The report will allow the contractors to formulate their proposals for demolition on a known situation and will eliminate contingencies for "found" problems during demolition.

Councilmember Trost was opposed to spending money for the hazardous materials assessment. He believed it is up to the demolition company to properly assess and dispose of any hazardous materials. City Administrator Murphy explained that it is important to have uniform specifications to obtain fair bid prices.

MOTION by Councilmember Coop, second by Councilmember Lange, to approve Resolution 10-103 Authorizing Braun Intertec to Proceed with Hazardous Materials Assessment of the Old Fire Hall. ALL VOTED AYE. MOTION CARRIED.

8.5. Public Works Storage Facility Update.

Mayor Lies referenced a memo dated August16, 2010 from City Administrator Murphy regarding an update on the public works storage facility.

City Administrator Murphy explained that staff was directed to research the four available buildings and to assess their pros and cons for use as a public works facility. Public Works Superintendent Fahey provided a PowerPoint presentation on the availability, square footage, lease and purchase price. Information was provided on the following four buildings: Haefner site at 551 West Beaver Street; Westerman property at 900 East South Street; Siwek Building at 835 East Commerce Drive; and Diversified Business Park building at 1021 Diversified Drive.

It was the consensus to review the information in detail at the upcoming work session on August 23, 2010.

8.6. Resolution 10-102 Authorizing Mayor and City Administrator to Execute Grant Agreement for Safe and Sober Project.

Mayor Lies referenced a memo dated August 16, 2010 from Finance Director Dawn Meyer regarding the Safe and Sober Project.

Finance Director Meyer explained the Belle Plaine Police Department is seeking the approval to participate with the Minnesota Department of Public Safety in a Safe and Sober Grant. The Safe and Sober Project is a federally funded program administered by the Minnesota Department of Public Safety (DPS) dedicated to addressing issues of traffic safety through highly publicized overtime enforcement projects. Combining increased enforcement activity with public awareness efforts has been found to result in long-lasting improvements on driver behavior. The Safe and Sober Project consists of three overtime enforcement waves and education along with six mini-waves of enforcement. The overtime enforcement waves occur over Thanksgiving, Independence Day and Labor Day. The mini-waves occur during Octoberfest, Halloween, Super Bowl Sunday, Valentines, St. Patrick's Day, Graduation and County Fair. If the grant application is accepted and awarded, the City would begin media releases and enforcement activities in the Fall of 2010 and conclude in the Fall of 2011. The key objectives of the project are to reduce impaired driving, speeding and traffic accidents while increasing seat belt usage in our community. Some key secondary objectives include reducing alcohol usage by minor and reduction in traffic related complaints. The project should have a significant impact on the key issues and secondary objectives, which will mean a safe community for our citizens and visitors.

Councilmember Trost was request the State grant also reimburse the City for vehicle maintenance and fuel costs associated with the additional patrol. He said that chasing speeders causes damage to the squads. Police Chief Stolee explained that the grant program reimburses the labor costs only. Finance Director Meyer explained that the Safe and Sober grant is not the Highway 169 speed control program. The Safe and Sober program includes local streets. Councilmember Coop supported the program.

MOTION by Councilmember Trost, second by Councilmember Underferth, to approve Resolution 10-102 Authorizing Mayor and City Administrator to Execute Grant Agreement for Safe and Sober Project. ALL VOTED AYE. MOTION CARRIED.

9. ADMINISTRATION.

9.1. Upcoming Meetings.
1. Beautification Committee, 3:30 p.m. Tuesday, August 17.
2. Park Board, 5:00 p.m., Tuesday, August 17.
3. Public Works, 8:30 a.m., Thursday, August 19.
4. Budget Workshop, 6:00 Monday, August 23.
5. Public Safety, time TBA, Wednesday, September 1.
6. Labor Day, Monday, September 6. City Offices Closed.
7. City Council, 6:00 p.m., Tuesday, September 7.

The Council was advised of the upcoming meetings as listed.

10. ADJOURN.
MOTION by Councilmember Underferth, second by Councilmember Trost, to adjourn at 7:55 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary