BELLE PLAINE CITY COUNCIL
REGULAR SESSION
AUGUST 20, 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, August 20, 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 and Michael Pingalore present. Councilmember Paul Chard arrived at 6:05 p.m.

Also present were City Administrator David Murphy, Community Development Director Trisha Rosenfeld, Public Works Superintendent Al Fahey, Finance Director Dawn Meyer, Police Officer Terry Stier, City Engineer Joe Duncan and City Attorney Bob Vose. Zachary Schoenecker served as the video recording operator.

3. APPROVAL OF AGENDA.

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

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of August 6, 2012.
4.2. Resolution 12-100 Accepting $163.64 Donation from the State Bank of Belle Plaine for Pool Amenities.
4.3. Resolution 12-101 Approving Intoxicating Liquor On-Sale Temporary (One Day) License for the Belle Plaine Chamber of Commerce for the Half Marathon on October 13, 2012.
4.4. Resolution 12-102 Approving Conveyance of Tax-Forfeited Land in the City of Belle Plaine and Authorizing Execution Application by A Governmental Subdivision for Conveyance of Tax-Forfeited Lands for an Authorized Public Purpose.
4.5. Resolution 12-106 Approving Agreement with Great River Energy for CAPX2020 and Authorizing the Mayor and City Administrator to Execute Agreement.

Councilmember Trost inquired about details for the conveyance of tax-forfeited land and commented that he was opposed to expending money for the land. City Administrator Murphy replied it was for a storm water pond in Prairie Ridge Fourth Addition.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the consent agenda as follows: 4.1. Regular Session Minutes of August 6, 2012, 4.2. Resolution 12-100 Accepting $163.64 Donation from the State Bank of Belle Plaine for Pool Amenities, 4.3. Resolution 12-101 Approving Intoxicating Liquor On-Sale Temporary (One Day) License for the Belle Plaine Chamber of Commerce for the Half Marathon on October 13, 2012, 4.4. Resolution 12-102 Approving Conveyance of Tax-Forfeited Land in the City of Belle Plaine and Authorizing Execution Application by A Governmental Subdivision for Conveyance of Tax-Forfeited Lands for an Authorized Public Purpose, and 4.5. Resolution 12-106 Approving Agreement with Great River Energy for CAPX2020 and Authorizing the Mayor and City Administrator to Execute Agreement. 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 Officer Terry Stier filled in for Chief Tom Stolee. The Council acknowledged receipt of the Police Department report.

5.4. Community Development Department.

Community Development Director Trisha Rosenfeld was present and reported that she will be seeking sign permits from the State and County as necessary for the way finding signage. Mayor Lies asked for clarification on the Arts in the Park program. The Council acknowledged receipt of the Community Development Department report.

5.5. City Administration Report.

City Administrator David Murphy was present. He noted a meeting regarding Sunrise Lane drainage issues will be held at 5:30 p.m. on August 27, 2012. He reported the City has received a check of $25,800 from Mediacom Cablevision resulting from the recent audit. The Council acknowledged receipt of the City Administration report.

Councilmember Chard arrived at 6:05 p.m.

6. PUBLIC FORUM.

Certificate of Appreciation – State Bank of Belle Plaine, Donation for Pool Amenities.

Mayor Lies acknowledged the State Bank's donation of $163.64 to be applied toward the purchase of pool amenities.

Kevin Slack, Treasurer, Belle Plaine Township, thanked the council and staff for finalizing the improvement agreement for Belle Plaine Trail. Mayor Lies also acknowledged the Township for their efforts in working together to finalize the agreement.

Tom Meger, Chamber Gambling Manager, referencing the upcoming business agenda item, recommended the premises permit application submitted by the German Days Committee for the Red Door be denied.

MOTION by Councilmember Coop, second by Councilmember Chard, to close the public forum at 6:13 p.m. ALL VOTED AYE. MOTION CARRIED.

7. PUBLIC HEARINGS.

7.1. After the Fact Variance. (Continued Hearing). 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.

Mayor Lies referenced a memo dated August 20, 2012 from Community Development Director Rosenfeld regarding a request for an after-the fact variance.

Community Development Director Rosenfeld explained the applicant and property owners, Chris and Janene Meyer, residing at 108 Oakwood Drive, are requesting the review of an after-the-fact variance to allow an accessory structure to remain within a utility easement. The utility shed, 10'x12, was constructed without a permit. To date, the permit has been obtained and paid for, contingent upon the approval of an after-the-fact variance. The setbacks for an accessory structure in the R-1 zoning district are ten (10) feet from the interior lot line and five (5) from the rear lot line. If the utility easement is greater than the zoning setbacks, the structure must remain out of the easement, per City Code. In this situation, there is a utility easement that is larger than the zoning setbacks. There are storm sewer and sanitary sewer located along the western property line, therefore creating a larger easement than a typical drainage and utility easement. It appears from the Scott County GIS topographic contour information there is a bluff present. Without a survey of the property, this cannot be confirmed. It also appears the utility shed is located in the bluff. The city's zoning ordinance indicates all structures should be placed 30' from the top of the bluff. The shed is presumed to be located right at the top of the bluff. The city recently denied an after-the-fact variance for a utility shed located in a drainage and utility easement. There were no apparent topographic constraints and the intent of the property owner at the time of obtaining a building permit was to construct the shed outside of the easement. The city approved a structure to be placed in an easement in 2005 for 720 Butler Drive due to the location of established trees and the slope of the rear yard.

Community Development Director Rosenfeld explained that at the July Planning Commission meeting, the request was tabled in order to allow for the location of the property pins, and an assessment of the impact to the bluff by the Scott County Water Resources department. Included with Community Development Director Rosenfeld's report was a memorandum from the Water Resources Engineer at Scott County. Mr. Swenson indicated he does not see an issue with the shed remaining in its current location. Also requested from the July meeting was for a further assessment of the property pins and the location of the utility shed by the property owner. City staff has met with the property owner to go over the recommended process to determine the location of the property pins, easement location and measurement of the utility shed in relation to both. Included with this memo is an updated site plan indicating a majority of the utility shed is located within the drainage and utility easement. The Planning Commission denied the request, but also recommended the City Council call for a public hearing to consider amending the ordinance to allow similar type structures with city easements.

Mayor Lies announced continuation of the public hearing at 6:21 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Chard, second by Councilmember Coop, to close the public hearing at 6:22 p.m. ALL VOTED AYE. MOTION CARRIED.

Mayor Lies inquired about the Planning Commission action. Community Development Director Rosenfeld explained the Planning Commission believed it appropriate to amend the zoning ordinance to allow structures such as these with a signed agreement for removal on demand if deemed necessary by the City or utility companies for drainage or utility work. Because the ordinance amendment could be in effect within 30 days, the Commission recommended denial of the variance request, with the intent the shed will become compliant upon adoption of the ordinance amendment. City Attorney Vose further explained that if a variance was granted, it would give the property owner permanent rights to the easement area. Mayor Lies inquired about the signed agreement. City Attorney Vose explained the ordinance amendment would allow a permitting process, acknowledging the temporary nature of the permit process to allow the structure to remain. Councilmember Schneider explained the Planning Commission denied the variance as set by precedent, not allowing structures in easement areas. Councilmember Pingalore asked whether an ordinance amendment would allow the applicant to keep the shed in its current location. Councilmember Chard questioned whether the council should table action on the request until the ordinance amendment is adopted. Councilmember Schneider commented on the 60-day review process and that council action is necessary prior to August 24, 2012.

1. Resolution 12-084 Deny After-the-Fact Variance to Allow an Accessory Structure to Remain within the Utility Easement at 108 Oakwood Drive.

MOTION by Councilmember Schneider to adopt Resolution 12-084 Deny After-the-Fact Variance to Allow an Accessory Structure to Remain within the Utility Easement at 108 Oakwood Drive.

Mayor Lies called for a second on the motion. There was no response. Motion dies for lack of a second.

MOTION by Councilmember Coop, second by Councilmember Trost, to approve an after-the fact variance to allow an accessory structure to remain within the utility easement at 108 Oakwood Drive

Councilmember Schneider explained the motion on the table is allowing the shed to permanently remain in its location. He noted the shed is located on a drainage and utility easement. Mayor Lies reiterated that approval of the variance would grant permanent rights to the applicant. City Attorney Vose noted the City Council would need to provide the findings of fact of practical difficulties if the variance is approved, and encouraged the council, if that is the intent, to table action to allow time for staff to prepare a corresponding resolution. Councilmember Pingalore asked if the council can table action until the business agenda item for the proposed ordinance amendment issue is discussed. Councilmember Schneider noted the precedent set with utility sheds in drainage easements. Councilmember Trost noted the many utility sheds are located in the easement areas. Councilmember Coop asked if a variance can be granted temporarily, such as 30 days or one year. City Attorney Vose explained a variance allows for a permanent application. Staff will be not seek to have this shed moved until the outcome of the ordinance amendment is known.

MOTION by Councilmember Coop, second by Councilmember Trost, WITHDREW their motion and second.

MOTION by Councilmember Coop, second by Councilmember Trost, to TABLE action on Resolution 12-084 Deny After-the-Fact Variance to Allow an Accessory Structure to Remain within the Utility Easement at 108 Oakwood Drive, until council takes action on calling for a public hearing for proposed ordinance amendment relating to utility sheds in drainage and utility easement area and bluff area. ALL VOTED AYE. MOTION CARRIED.

7.2. Conditional Use Permit – Special Home Occupation Permit. The City Council will consider public comment on a request by Chris and Katy Potter for a conditional use permit for a special home occupation permit to allow a hair salon at 968 Mallard Lane, in the R-1, Single Family Residential District.

Mayor Lies referenced a memo dated August 20, 2012 from Community Development Director Rosenfeld regarding a special home occupation permit.

Community Development Director Rosenfeld explained the property owner at 968 Mallard Lane, Chris and Katy Potter, are requesting the review of a special home occupation/conditional use permit to allow the operation of a hair salon at their residence. There are certain types of home occupation uses that are allowed by an administrative permit. Those uses include, but are not limited to: art studio, dressmaking, secretarial services, nursery day care, foster care, professional offices and teaching with musical, dancing and other instructions which consist of no more than one (1) pupil at a time, and similar uses. Other special home occupation uses require the approval of a conditional use permit. Those uses include, but are not limited to: barber and beauty services, photography studio, group lessons, saw sharpening, small appliances and small engine repair and the like. The hair salon requires the approval of a conditional use permit. The Planning Commission recommended approval with conditions.

Mayor Lies opened the public hearing at 6:41 p.m. and asked for public comment.

Chris and Katy Potter, applicants, requested approval. Chris Potter noted that the only modification will be adding a service door to the garage area. He said his neighborhood is in support of the hair salon.

MOTION by Councilmember Coop, second by Councilmember Pingalore, to close the public hearing at 6:42 p.m. ALL VOTED AYE. MOTION CARRIED.

1. Resolution 12-103 Granting Approval of a Conditional Use Permit – Special Home Occupation to Allow a Hair Salon at 968 Mallard Lane.

Mayor Lies inquired about chemical waste disposal. Public Works Superintendent Fahey stated that this is not of major concern at this level. Chris Potter explained that natural products will be used at the hair salon.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 12-103 Granting Approval of a Conditional Use Permit – Special Home Occupation to Allow a Hair Salon at 968 Mallard Lane. ALL VOTED AYE. MOTION CARRIED.

8. BUSINESS.

8.1. Presentation of Claims.

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

8.2. Ehlers and Associates.

1. Resolution 12-104 Providing for the Pre-Sale Bond for the 2012 Street Improvement Project.
2. Resolution 12-105 Providing for Pre-Sale Bond for the G.O Water Revenue Refunding Bonds.

Mayor Lies referenced a memo dated August 20, 2012 from Finance Director Meyer regarding bonding for the 2012 street improvement project. Finance Director Meyer explained the city council awarded the contract for the 2012 street reconstruction project for $1,599,900.27. Funding for the project will be through general obligation bonds. The general obligation bonds will be repaid using special assessments and tax levy. As part of the bonding process it is appropriate for the council to review the presale report prepared by Ehlers and Associates, and then call for the sale of the bonds. The refunding water revenue bonds will provide for interest expense savings of approximately $254,562.72 over the next 15 years.

Mark Ruff, Ehlers and Associates, the City's Financial Advisor, provided a summary of the pre-sale report. He anticipated a favorable interest rate for the bonds. He also explained the water refunding bonds and the anticipated savings.

MOTION by Councilmember Coop, second by Councilmember Trost, to approve Resolution 12-104 Providing for the Pre-Sale Bond for the 2012 Street Improvement Project. ALL VOTED AYE. MOTION CARRIED.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 12-105 Providing for Pre-Sale Bond for the G.O Water Revenue Refunding Bonds. ALL VOTED AYE. MOTION CARRIED.

8.3. First Stop Shop Presentation – Brad Davis, Scott County.

Mayor Lies welcomed Brad Davis of Scott County Planning Department.

Mr. Davis provided an overview of the First Stop Shop program that involves all Scott County cities. In cooperation with SCALE, the First Stop Shop is to promote economic development in Scott County, streamlining information to developers interested in developing or expanding in the south metro area. Mr. Davis explained that a business manager and part-time assistant will be hired to administer the program. Mr. Bruce Malkerson also spoke on behalf of the First Stop Shop program.

Mayor Lies inquired about competition with larger cities. Mr. Davis explained the importance of having a pad-ready site available for developers. Councilmember Chard was opposed to hiring more personnel for this program.

Mayor Lies thanked Mr. David and Mr. Malkerson for their presentation.

8.4. Charitable Gambling Premises Permit by German Days, Inc. for Red Door Bar.

Mayor Lies referenced a memo dated August 20, 2012 from City Administrator Murphy regarding a request for charitable gambling premises permit by German Days, Inc. for Red Door Bar.

City Administrator Murphy explained this item was tabled at the August 6, 2012 council meeting to allow time to obtain further information. On August 6, 2012, the Friends of the Library and German Days Committee addressed the council and stated that they would be in agreement to split the areas of gambling for the Red Door. They indicated that the Friends would keep the pull tab portion of the charitable gambling and that the German Days Committee would take the remaining portions such as tip-ups, paddleboards and bingo. This type of split is legally possible, but is not currently allowed by city ordinance. The ordinance was recently changed to allow only one entity per premises permit. If council considers a change, staff recommends that it be allowed by agreement of the two entities so that council would not have to choose one over the other. If council concurs with this change, staff would need to be directed to begin the process to amend the ordinance and bring it forward to council. There is a $500 fee to request an amendment/change to the city code. It has not been discussed with the entities which group would pay the fee or if they would split the fee. It is important to note that the city invoice for police protection for the German Days Celebration held in June has not been paid.

Mayor Lies asked if the City has received any updated information from the German Days Committee. City Administrator Murphy replied no.

MOTION by Councilmember Trost, second by Councilmember Pingalore, to Resolution 12-099A, Denying Charitable Gambling Premises Permit by German Days, Inc. for Red Door Bar. ALL VOTED AYE. MOTION CARRIED.

8.5. Sparetime Tavern – Patio Regulations.

Mayor Lies referenced a memo dated August 20, 2012 from City Administrator Murphy regarding patio regulations.

City Administrator Murphy explained that Don Savage has submitted a drawing detailing his intention to allow for outdoor seating for the Sparetime Tavern. Mr. Savage does not own the property at this time and is requesting to address the council prior to his purchase of the property.

Don Savage, property owner, explained that he would like to add an outdoor patio at Sparetime Tavern and is pursuing the purchase of adjacent property. Before he proceeds with the purchase, he asked for input from the city council. Mr. Savage explained the patio would be enclosed and secured. Mayor Lies asked about ADA compliance. Mr. Savage explained that he will be working with the city building official prior to any improvements to the property.

It was the consensus of the council to allow Mr. Savage to proceed with plans for adding a patio to the Sparetime Tavern and to work with staff regarding the revised liquor license premise application.

The council recessed at 7:33 p.m. and reconvened at 7:39 p.m.

8.6. Street Sweeper.

Mayor Lies referenced a memo dated August 20, 2012 from Public Works Superintendent Fahey regarding the lease of a street sweeper.

Public Works Superintendent Fahey explained the street sweeper is ten years old, because of its age and the condition, it is in need of replacement. The cost to purchase a new sweeper is $158,295.23 including taxes. Also included was the lease option at $33,830.00 per year for five years. It is estimated to cost $23,559.76 to repair the current sweeper to make it operable. The Public Works Committee had discussion on this item at their meeting but did not make a recommendation.

Councilmember Chard suggested obtaining quotes from other vendors than Pelican, such as Tenco and Elgin. Public Works Superintendent Fahey explained the Pelican quote was based on State bid. Public Works Superintendent Fahey and Finance Director Meyer recommended a lease program rather than outright purchase. Councilmember Coop asked for a explanation of the costs on purchase vs. lease. Councilmember Trost inquired about the cost to repair the old sweeper.

MOTION by Councilmember Coop, second by Councilmember Schneider, to direct staff to proceed with the lease of a Pelican sweeper at a cost of $33,830.09 per year for a five year term. Councilmembers Trost and Chard VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

8.7. Call for Public Hearing for Proposed Ordinance Amendment Relating to Utility Sheds in Drainage and Utility Easement Area and Bluff Area.

Mayor Lies referenced a memo dated August 20, 2012 from Community Development Director Rosenfeld regarding calling for a public hearing for a proposed ordinance amendment.

Community Development Director Rosenfeld explained there have been numerous requests over the past several years, as well as variances granted and denied, for utility structures that are 120 square feet or less, to be allowed in drainage and utility easements and the bluff area as defined by ordinance. Staff has requested consideration of an ordinance amendment to allow these type of structures to be allowed in drainage and utility easements and the bluff area, contingent upon a signed agreement for removal on demand if deemed necessary by the City or utility companies for drainage or utility work. Staff has been researching other cities who allow this type of request. Those cities found include Shakopee, Plymouth, Blaine, and Lino Lakes, to mention a few. It is common amongst other cities. The Planning Commission unanimously recommends the City Council call for a public hearing to consider amending the ordinance. The Commission called for a public hearing at the recent Planning Commission meeting.

Councilmember Trost commented that there are many residents who have a shed a located in an easement area.

MOTION by Councilmember Chard, second by Councilmember Schneider, to direct staff to proceed with scheduling a public hearing for a proposed ordinance amendment pertaining to allowing certain sheds to be located in a drainage and utility easement or bluff area. ALL VOTED AYE. MOTION CARRIED.

Mayor Lies announced the consideration of action on tabled issue, Resolution 12-084 Deny After-the-Fact Variance to Allow an Accessory Structure to Remain within the Utility Easement at 108 Oakwood Drive.

MOTION by Councilmember Coop, second by Councilmember Trost, to discuss tabled item Resolution 12-084 Deny After-the-Fact Variance to Allow an Accessory Structure to Remain within the Utility Easement at 108 Oakwood Drive. ALL VOTED AYE. MOTION CARRIED.

MOTION by Councilmember Schneider, second by Councilmember Trost, to adopt Resolution 12-084 Deny After-the-Fact Variance to Allow an Accessory Structure to Remain within the Utility Easement at 108 Oakwood Drive. ALL VOTED AYE. MOTION CARRIED.

8.8. Requiring Photo Identification of Applicants of Peddlers Permits.

Councilmember Coop would like to implement a policy that requires photo identification of individuals obtaining a peddlers permit. The City has the photo card equipment. Non-profit organizations would be exempt.

Councilmember Trost reported on a recent episode involving door-to-door peddlers.

It was the consensus of the Council to direct staff to proceed with scheduling a public hearing for a proposed ordinance amendment pertaining to peddlers' permits.

8.9. Schedule Budget Workshop.

The preliminary budget workshop was scheduled for 6:30 p.m. on Monday, August 27, 2012.

9. ADMINISTRATION.

9.1. Upcoming Meetings.
1. Budget Workshop, 6:00 p.m., Thursday, August 23.
2. Park Board, 5:00 p.m., Monday, August 27.
3. City Offices Closed, Labor Day, Monday, September 3.
4. City Council, 6:00 p.m., Tuesday, September 4.
5. Public Works, 11:00 a.m., Tuesday, September 5.
6. EDA, 5:00 p.m., Monday, September 10.
7. Planning Commission, 7:00 p.m., Monday, September 10.

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Chard, to adjourn at 8:26 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary