BELLE PLAINE CITY COUNCIL
REGULAR SESSION
NOVEMBER 21, 2011

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, November 21, 2011 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 Gary Trost, Cary Coop, Paul Chard, Scott Schneider 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. Beth Dempsey served as the Video Recording Operator.

3. APPROVAL OF AGENDA.

Councilmember Trost commented that he prefers the closed session regarding the proposed property acquisition be moved to the start of tonight's meeting to allow video recording of the council action during the business portion of the agenda. Councilmember Coop objected.

Mayor Lies requested the addition of "Update on the Township Ambulance Fund Mediation" to the closed session portion of the agenda.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the agenda with the addition of "Update on the Township Ambulance Fund Mediation" to the closed session portion. Councilmember Trost VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of November 7, 2011.
4.2. Resolution 11-135 Authorizing Write-Off of Fire Bill for Belle Plaine School District.
4.3. Resolution 11-136 Adopting Special Assessment Roll for Delinquent Utility Accounts.
4.4. Call for a Public Hearing for Proposed Ordinance Amendment Pertaining to Non-Conformance Expansion Permit.
4.5. Call for a Public Hearing on Proposed Fee Changes for the City's 2012 Fee Schedule.
4.6. Resolution 11-137 Approving Law Enforcement Labor Union Contract.
4.7. Resolution 11-138 Appointing Ryan Herrmann, Andrew Mesenbring and Shaun Yahnke as Firefighters with the Belle Plaine Fire Department.
4.8. Resolution 11-139 Authorizing Mayor and City Administrator to Execute MnDOT Agency Agreement No. 99997 to Allow MnDOT to Act as City Agent for Federal Funds.
4.9. Resolution 11-140 Adopting Assessment Roll for Delinquent Code Enforcement Bills.
4.10. Resolution 11-141 Adopting Assessment Roll for Delinquent Fire Bills.

Councilmember Trost inquired about the process for delinquent utility bills. This item was then moved to the business portion of the meeting.

MOTION by Councilmember Coop, second by Councilmember Schneider, to move consent item "Resolution 11-136 Adopting Special Assessment Roll for Delinquent Utility Accounts" to the business portion of the agenda and approve the consent agenda a follows: 4.1. Regular Session Minutes of November 7, 2011; 4.2. Resolution 11-135 Authorizing Write-Off of Fire Bill for Belle Plaine School

District; 4.3. Call for a Public Hearing for Proposed Ordinance Amendment Pertaining to Non-Conformance Expansion Permit; 4.4. Call for a Public Hearing on Proposed Fee Changes for the City's 2012 Fee Schedule; 4.5. Resolution 11-137 Approving Law Enforcement Labor Union Contract; 4.6. Resolution 11-138 Appointing Ryan Herrmann, Andrew Mesenbring and Shaun Yahnke as Firefighters with the Belle Plaine Fire Department; 4.7. Resolution 11-139 Authorizing Mayor and City Administrator to Execute MnDOT Agency Agreement No. 99997 to Allow MnDOT to Act as City Agent for Federal Funds; 4.8. Resolution 11-140 Adopting Assessment Roll for Delinquent Code Enforcement Bills and 4.9. Resolution 11-141 Adopting Assessment Roll for Delinquent Fire Bills. 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. Councilmember Trost inquired as to why City staff was not involved in the appointment process for new firefighters. Fire Chief Koepp encouraged anyone who is interested to participate in the process. He further explained that candidates are recommended for appointment as a result of successfully meeting the criteria set. The Council acknowledged receipt of the Fire Department report.

5.3. Police Department.

Police Chief Tom Stolee was present. Councilmember Trost noted the Police Squad (Dodge Charger) is being driven without the daytime running lights. Police Chief Stolee will address this issue with the officers. The Council acknowledged receipt of the Police Department report.

5.4. Community Development Department.

Community Development Director Trisha Rosenfeld was present. Councilmember Trost commented that he does not support the idea of adding signage to promote ice skating at Hickory Park. He said very few students own ice skates. Councilmember Trost also asked that city staff refrain from distributing whistles to children on Halloween. 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.

No one spoke at the public forum.

7. PUBLIC HEARINGS.

7.1. Final Assessment Hearing on 2011 Street Improvement Project. The City Council will receive and consider public comment on final assessments for the 2011 Street Improvement Project.

Mayor Lies referenced a memo dated November 21, 2011 from City Administrator Murphy regarding the final assessment for the 2011 street improvement project.

City Administrator Murphy explained the 2011 street improvement project is nearing completion and the City Engineer feels confident that the costs can be accurately assessed. The final costs came in under the bid amount and the final assessments are known. The Council will accept public comment on the final assessments for the project. After the close of the public hearing, the Council will adopt the final assessment. The payment period is for seven (7) years at an interest rate of 3.5% per annum. The property owners have the option of submitting payment to the City by December 22, 2011 in order to avoid interest charges.

Mayor Lies opened the public hearing at 6:23 p.m. and asked for public comment.

City Engineer Duncan provided a brief overview of the project. The project included a large of amount of city-owned property and oversizing costs. The State appeal process requires written formal appeals to be presented at this hearing for those property owners appealing their assessment. City Engineer Duncan noted the assessment for property at 309 North Linden has been reduced by $182.25 due to a reduction in the bituminous driveway.

Art Huber, 329 North Ash Street, inquired about the deferment process. Staff explained the process.

MOTION by Councilmember Coop, second by Councilmember Schneider, to close the public hearing at 6:30 p.m. ALL VOTED AYE. MOTION CARRIED.

1. Resolution 11-127 Adopting Final Assessment Roll for the 2011 Street Improvement Project.

MOTION by Councilmember Chard, second by Councilmember Coop, to approve Resolution 11-127 Adopting Final Assessment Roll for the 2011 Street Improvement Project, with a reduction of $182.25 for the property at 309 North Linden Street due to a reduction in driveway bituminous. ALL VOTED AYE. MOTION CARRIED.

2. Resolution 11-128 Approving Deferment for 201 North Linden Street for the 2011 Street Improvement Project.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve Resolution 11-128 Approving Deferment for 201 North Linden Street for the 2011 Street Improvement Project. ALL VOTED AYE. MOTION CARRIED.

7.2. Conditional Use Permit (After the Fact). The City Council will accept public comment on a request for a conditional use permit by Perry and Donna Oestreich to allow a second driveway at 318 North Linden Street.

Mayor Lies referenced a memo dated November 21, 2011 from Community Development Director Rosenfeld regarding an after-the-fact request for a conditional use permit.

Community Development Director Rosenfeld explained the City's zoning ordinance currently indicates a Conditional Use Permit needs to be approved by the Council in order to allow a single or two-family residential property to have two driveway curb cuts. During the 2011 street project, a decision was made to allow this property to have a second driveway that leads to a detached garage. It is at this time we are reviewing an "after-the-fact" conditional use permit because the decision was necessary at the time the concrete was being poured. The zoning ordinance indicates that a second driveway is allowed by conditional use permit. The City cannot deny the conditional use permit, but simply put conditions on the approval. In the future, staff would like to implement a driveway permit instead of having a conditional use permit approved to allow two driveways on a residential property. This is expected to be brought forward in the near future, prior to the 2012 construction season. This property has an attached garage having access to Linden Street, and a detached garage having access to Court Street. The Planning Commission recommended approval.

Mayor Lies opened the public hearing at 6:36 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Coop, second by Councilmember Schneider, to close the public hearing at 6:37 p.m. ALL VOTED AYE. MOTION CARRIED.

1. Resolution 11-129 Granting Approval of a Conditional Use Permit to Allow a Second Driveway at 318 North Linden Street.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve Resolution 11-129 Granting Approval of a Conditional Use Permit to Allow a Second Driveway at 318 North Linden Street. ALL VOTED AYE. MOTION CARRIED.

7.3. Conditional Use Permit (After the Fact). The City Council will accept public comment on a request for a conditional use permit by Johan and Ann Miller to allow a second driveway at 418 North Linden Street.

Mayor Lies referenced a memo dated November 21, 2011 from Community Development Director Rosenfeld regarding an after-the-fact request for a conditional use permit.

Community Development Director Rosenfeld explained the City's zoning ordinance currently indicates a Conditional Use Permit needs to be approved by the Council in order to allow a single or two-family residential property to have two driveway curb cuts. During the 2011 street project, a decision was made to allow this property to have a second driveway that leads to a second attached garage. It is at this time we are reviewing an "after-the-fact" conditional use permit because the decision was necessary at the time the concrete was being poured. The zoning ordinance indicates that a second driveway is allowed by conditional use permit. The City cannot deny the conditional use permit, but simply put conditions on the approval. In the future, staff would like to implement a driveway permit instead of having a conditional use permit approved to allow two driveways on a residential property. This is expected to be brought forward in the near future, prior to the 2012 construction season. The property accesses Linden Street with both driveways. The southern driveway leads to the primary two-stall garage, attached to the home. The northern driveway leads to a secondary, attached garage. The Planning Commission recommended approval.

Mayor Lies opened the public hearing at 6:38 p.m. and asked for public comment. There was no response.

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

1. Resolution 11-130 Granting Approval of a Conditional Use Permit to Allow a Second Driveway at 418 North Linden Street.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 11-130 Granting Approval of a Conditional Use Permit to Allow a Second Driveway at 418 North Linden Street. ALL VOTED AYE. MOTION CARRIED.

7.4. Ordinance 11-12, Rezone. The City Council will accept public input on a request by Leroy and Connie Chard, 26239 State Highway 25, Belle Plaine, MN, to rezone property from I-2, Industrial, to I-C, Industrial/Commercial for Lot 1, Block 2, Excelsior-Henderson Industrial Park.
I
Mayor Lies referenced a memo dated November 21, 2011 from Community Development Director Rosenfeld regarding a request for a rezone.

Community Development Director Rosenfeld explained that applicants, Connie and LeRoy Chard, have requested to rezone 900 East South Street to be changed from the current zoning of General Industrial (I-2) to Industrial-Commercial (I-C). This would allow for expanded uses of the property, while allowing the property to remain in harmony with the rest of the area uses. The Comprehensive Plan has this property remaining as I-2, General Industrial. The Metropolitan Council would not require a Comprehensive Plan Amendment that is sometimes required when rezoning occurs at the local level. The impact on traffic by the change of zoning would not be enough to warrant an amendment. The impact this zoning change would have to the overall transportation system is not more than it would with the existing zoning. This property currently has two direct access driveways to South Street. One driveway is to the storage units, the second is the former Westerman Lumber building. The Planning Commission recommended approval.

Councilmember Trost asked about the zoning of the former Westerman Lumber. Community Development Director Rosenfeld explained a portion of retail sales is allowable under the I-2 zoning regulations.

Mayor Lies opened the public hearing at 6:42 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Coop, second by Councilmember Schneider, to close the public hearing at 6:43 p.m. ALL VOTED AYE. MOTION CARRIED.

1. Reading and Adoption of Ordinance 11-12.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve the Reading and Adoption of Ordinance 11-12. ALL VOTED AYE. MOTION CARRIED.

7.5. Ordinance 11-13, Section 1105.13, Subd. 3, Conditional Uses. The City Council will accept public input on proposed Ordinance 11-13, Section 1105.13, Subd. 3, Conditional Uses, adding daycare facility as a conditional use.

Mayor Lies referenced a memo dated November 21, 2011 from Community Development Director Rosenfeld regarding Ordinance 11-13.

Community Development Director Rosenfeld explained the applicants, Connie and LeRoy Chard, have requested an ordinance amendment to allow for a daycare facility as a conditional use in the Industrial-Commercial zoning district. Chapter 11, Section 1105.18, I-C district indicates the uses allowed. All uses are by conditional use permit. There are no permitted uses in this zoning district. Chapter 11, Section 1106.05 Conditional Uses in I/C Industrial Commercial District, indicates the specific standards for conditional uses in the I/C District shall be as listed in Section 1106.02 Subd 3 (B-2 Highway Commercial). The Planning Commission recommend daycare nursery facility be added as a conditional use in the I-C Industrial Zoning district, contingent upon the State's requirement of zoning language. The Minnesota Department of Health indicates they are satisfied if the City says the facility meets zoning requirements. Staff feels it best if the City would like to allow daycare facilities in the I-C zoning district, to add this specifically to the list of conditional uses, rather than use existing language.

Mayor Lies opened the public hearing at 6:47 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Coop, second by Councilmember Schneider, to close the public hearing at 6:47 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Coop commented on the speed limit along the 900 block of South Street East as set by Scott County.

MOTION by Councilmember Coop, second by Councilmember Trost, to approve the Reading and Adoption of Ordinance 11-13. ALL VOTED AYE. MOTION CARRIED.

7.6. Ordinance 11-11, Storm Water Easements. The City Council will receive and consider public comment on proposed Ordinance 11-11, amending the City Code by amending Chapter 11, Section 1107.21 pertaining to storm water easements.

Mayor Lies referenced a memo dated November 21, 2011 from Community Development Director Rosenfeld regarding Ordinance 11-11.

Community Development Director Rosenfeld explained the City amended the 2006 Surface Water Management Plan on May 16, 2011 and is required by the Scott County Water Management Organization (WMO) to revise official controls. It is at this time staff is proposing the changes necessary to compliment the amended plan. Only one section of the zoning ordinance is necessary to change. All other official controls are in compliance with the amended plan. Language will be added to Stormwater Management: Section 1107.21, Subd. 6, Item 15: Easement. The Planning Commission recommended approval.

City Attorney Vose noted many cities and property owners struggle with the maintenance obligation of easement areas. He recommended the development agreement outline the responsibility of the easement area.

Mayor Lies opened the public hearing at 6:58 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Coop, second by Councilmember Chard, to continue the public hearing until Monday, December 5, 2011 and table action on Ordinance 11-11 to allow time for staff to further review the maintenance responsibility associated with easements. ALL VOTED AYE. MOTION CARRIED.

8. BUSINESS.

8.1. Presentation of Claims.

Councilmember Chard inquired about the payment of $2,122.03 to John's Mobil. Police Chief Stolee explained that it was for service on various vehicles.

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

8.2. Resolution 11-136 Adopting Special Assessment Roll for Delinquent Utility Accounts.

Councilmember Trost inquired about the assessment process for delinquent bills. Finance Director Meyer provided an explanation.

MOTION by Councilmember Trost, second by Councilmember Coop, to approve Resolution 11-136 Adopting Special Assessment Roll for Delinquent Utility Accounts. ALL VOTED AYE. MOTION CARRIED.

Recess Regular Session.

Mayor Lies recessed the regular session at 7:03 p.m.

8.3. Closed Session.

1. Discussion on Proposed Property Acquisition.
2. Update on Mediation on the Ambulance Fund with Township Boards.

Mayor Lies announced the closed session at 7:15 p.m. with Councilmembers Chard, Trost, Pingalore, Coop and Schneider 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.

The Council and staff discussed proposed property acquisition. City Attorney Vose also provided an update on the mediation status with the township boards regarding the former ambulance fund.

The closed session was adjourned at 7:50 p.m.

Reconvene Regular Session.

Mayor Lies convened the regular session at 7:50 p.m.

8.4. Property Acquisition.

City Administrator Murphy provided a brief summary of the proposed purchase agreement for property at 891 Diversified Drive owned by Valley Business Park, LLC.

City Attorney Vose explained that the purchase agreement contains three contingencies: seller must provide proper title work, city reserves the right to an environmental inspection, and all subject to approval by the city council.

MOTION by Councilmember Schneider, second by Councilmember Pingalore, to authorize the Mayor and City Administrator to execute the purchase agreement with Valley Business Park, LLC for property acquisition at 891 Diversified Drive at a cost of $1,070,000. Mayor Lies and Councilmembers Coop, Schneider and Pingalore VOTED AYE. Councilmembers Chard and Trost VOTED NAY. MOTION CARRIED.

9. ADMINISTRATION.

9.1. Upcoming Meetings.
1. Thanksgiving Holiday, Nov. 24 & 25, City Offices Closed.
2. Park Board, 5:00 p.m. Monday, Nov. 28.
3. Truth in Taxation, 6:00 p.m. Monday, Dec. 5.
4. City Council, 6:30 p.m., Monday, Dec. 5.

The council was reminded of the upcoming meetings as listed.

It was the consensus of the council to schedule a budget workshop at 5:30 p.m. on Tuesday, November 29, 2011.

10. ADJOURN.

MOTION by Councilmember Pingalore, second by Councilmember Coop, to adjourn at 7:58 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary