BELLE PLAINE CITY COUNCIL
REGULAR SESSION
NOVEMBER 21, 2016

1. PLEDGE OF ALLEGIANCE.

Mayor Michael Pingalore 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, 2016 at 6:30 p.m. in the council chambers of City Hall, 218 North Meridian Street, Belle Plaine, MN. Mayor Michael Pingalore called the meeting to order with Councilmembers Gary Trost, Cary Coop, Paul Chard and Henry Pressley, Jr. present.

Also present were City Administrator Mike Votca, Finance Director Dawn Meyer, Public Works Superintendent Al Fahey, Community Development Director Cynthia Smith Strack, Police Chief Tom Stolee, City Engineer Joe Duncan and City Attorney Bob Vose. Wanda Savage served as the video recording operator.

Mayor Elect Chris Meyer and Councilmember Elect Ben Stier were members of the audience.

3. APPROVAL OF AGENDA.

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

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of November 7, 2016.
4.2. Special Session Minutes of November 14, 2016.
4.3. Authorize Replacement of Skid Steer.
4.4. Resolution 16-135 Approving Renewal of Premises Permit for the Belle Plaine Chamber of Commerce at Neisen's Corner Bar, Huck's Shipwreck Saloon, and Johan's Bar and Grill.
4.5. Resolution 16-136 Approving Renewal of Premises Permit for the Belle Plaine Friends of the Library at Sparetime Tavern, Borough Bowl, and Red Door Bar.
4.6. Resolution 16-137 Approving Renewal of Premises Permit for German Days, Inc. at Andy's Bar and Grill.
4.7. Resolution 16-138 Adopting Special Assessment for Delinquent Utility Accounts.
4.8. Resolution 16-142 Authorizing Acceptance of Southwest Metro Drug Task Force Joint Powers Agreement.
4.9. Resolution 16-143 Approving Loan Policy and Procedures for BPEDA's Restoration, Opportunity, Sustainability and Enterprise (ROSE) Loan Program.
4.10. Resolution 16-144 Discontinuation of Interim City Administrator Pay Upon Successful Completion of City Administrator Votca's Performance Evaluation.

MOTION by Councilmember Coop, second by Councilmember Pressley, to approve the consent agenda as follows: 4.1. Regular Session Minutes of November 7, 2016, 4.2. Special Session Minutes of November 14, 2016, 4.3. Authorize Replacement of Skid Steer, 4.4. Resolution 16-135 Approving Renewal of Premises Permit for the Belle Plaine Chamber of Commerce at Neisen's Corner Bar, Huck's Shipwreck Saloon, and Johan's Bar and Grill, 4.5. Resolution 16-136 Approving Renewal of Premises Permit for the Belle Plaine Friends of the Library at Sparetime Tavern, Borough Bowl, and Red Door Bar, 4.6. Resolution 16-137 Approving Renewal of Premises Permit for German Days, Inc. at Andy's Bar and Grill, 4.7. Resolution 16-138 Adopting Special Assessment for Delinquent Utility Accounts, 4.8. Resolution 16-142 Authorizing Acceptance of Southwest Metro Drug Task Force Joint Powers Agreement, 4.9. Resolution 16-143 Approving Loan Policy and Procedures for BPEDA's Restoration, Opportunity, Sustainability and Enterprise (ROSE) Loan Program, and 4.10. Resolution 16-144 Discontinuation of Interim City Administrator Pay Upon Successful Completion of City Administrator Votca's Performance Evaluation. ALL VOTED AYE. MOTION CARRIED.

5. DEPARTMENT REPORTS.

5.1. Ambulance Department.

Ridgeview Ambulance provided a written monthly report. The Council acknowledged receipt of the Ambulance Department report.

5.2. Fire Department.

Fire Chief 2 Brian Siekmann 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 Cynthia Smith Stract was present. The Council acknowledged receipt of the Community Development Department report.

6. PUBLIC FORUM - RECOGNITION OF INVOLVED CITIZENS.

No one spoke during the public forum.

7. PUBLIC HEARINGS.

7.1. Conditional Use Permit and Variance. The City Council will consider public comment on a request by Cindy Heimerl relating to property at 229 North Meridian Street in the B-3 Central Business District, to operate a small event center with an ancillary apartment at the subject address. Apartments in the B-3 District require issuance of a conditional use permit under Section 1105.11, Subd. 4(5) of the code. Applicant also requests a reduction in the number of off-street parking spaces required for apartment.

Community Development Director Smith Strack provided a Power Point presentation of the request by Cindy Heimerl for a conditional use permit and variance to operate a small event center with an ancillary apartment at 229 North Meridian Street. Cindy Heimerl has filed a request for a reduction from two parking spaces as required per apartment in the Central Business District to one. In addition, Heimerl requests a CUP to allow use of an existing two-bedroom apartment located in the rear of the storefront at 229 Meridian Street North. The majority of the building will be used for small special events such as groom's dinners, graduations, anniversaries, etc. No changes to the existing building footprint are proposed. The Applicant currently owns/operates Rubies and Rust a wedding barn adjacent to Kittson Boulevard in Belle Plaine Township. The Planning Commission held a public hearing on the requests on November 14th and recommended approval of the variance on a 3-2 vote and unanimously recommended approval of the conditional use permit.

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

Applicant and owner Cindy Heimerl requested approval of the variance and conditional use permit so that she may operate a small event center.

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

7.1.1. Resolution 16-139 Approving a Variance to Section 1107.12, Subd. 10(26)(9)(b) of the Code Reducing the Number of Off-Street Parking Stalls Required for an Apartment in the B-3 Central Business District from Two Spaces to One Space for a Residential Apartment at 229 Meridian Street North.

Councilmember Chard expressed concern for reducing the number of required parking spaces, but understood the City will address issues with Ms. Heimerl if parking complaints related to the event center are received. He supports the re-vitalization of the vacant building. Ms. Heirmerl explained that she is seeking to purchase property that would provide additional parking, but to no avail at this time. Councilmember Trost was opposed to the variance opining it could potentially set a precedent. Ms. Heirmerl explained that the apartment would be not be utilized on a full-time basis, only for short stays associated with an event. Councilmember Pressley, serving as the Council Liaison to the Planning Commission, explained the Zoning Ordinance does not distinguish a full-time apartment from one that is used only periodically.

MOTION by Councilmember Coop, second by Councilmember Pressley, to approve Resolution 16-139 Approving a Variance to Section 1107.12, Subd. 10(26)(9)(b) of the Code Reducing the Number of Off-Street Parking Stalls Required for an Apartment in the B-3 Central Business District from Two Spaces to One Space for a Residential Apartment at 229 Meridian Street North. Councilmember Trost VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

7.1.2. Resolution 16-140 Conditional Use Permit to Allow Residential Apartment at 229 North Meridian Street in the B-3, Central Business District.

MOTION by Councilmember Coop, second by Councilmember Pingalore, to approve Resolution 16-140 Conditional Use Permit to Allow Residential Apartment at 229 North Meridian Street in the B-3, Central Business District. ALL VOTED AYE. MOTION CARRIED.

7.2. Consideration of Issuance of Franchise. The City of Belle Plaine will consider issuance of a competitive franchise. Application requirements are set forth in Minnesota Statutes, Section 238.081, Subd. 4.

City Administrator Votca explained that the purpose of the hearing is to accept applications for cablevision franchise. Applications are to be submitted by November 29, 2016.

City Attorney Vose explained that Frontier Communications of Minnesota recently approached the City about obtaining a franchise to provide cable service. Frontier has already received cable franchises from Apple Valley, Burnsville, Farmington, Lakeville, and Rosemount. The company has requested franchises from other cities such as Wyoming and Chisago City in the eastern suburbs and Delano, Mound and Watertown to the west. Minnesota law establishes the process for local issuance of cable franchises. As required, the City published Notice of Intent to consider issuance of a franchise. Frontier filed a timely and complete application and the required fee. The City will hold a statutorily-required public hearing this evening to consider the application. The public hearing will give Frontier an opportunity to summarize its application and cable plans. The public and the incumbent cable provider, Mediacom, will also have an opportunity to comment. State law requires substantial build-out of a cable system to make cable service available within five (5) years of receipt of an initial franchise.

Frontier's application addresses the company's service deployment plans. The application indicates that Frontier's expansion "should be driven by market success, and not a contractual requirement for ubiquitous coverage." In negotiations with other cities, however, Frontier has agreed to construct and activate cable service consistent with state law; i.e. 5 years to substantially build-out.

The franchising process is "quasi-judicial" meaning the city council will need to act as a neutral and independent decision-maker concerning the application and any comments or opposition that may be presented. *In re Application of Dakota Telecommunications Group*, 590 N.W.2d 644, 647-8 (Minn. App. 1999). Accordingly, only staff and legal counsel should engage in direct communications with Frontier regarding its application. City council members should not communicate with Frontier regarding its cable service plans before rendering a decision. At the conclusion of the hearing, the hearing record should be closed. In turn, staff should be directed to review the application, consider any input received at the hearing, and begin negotiations with Frontier.

Mayor Pingalore opened the public hearing at 7:01 p.m. and asked for public comment.

Jack Phillips, Director of External Affairs, Frontier Communications, provide an overview of their proposal to offer cable service to City residents. He explained that Frontier Communications preliminary agrees with the current regulations in place for cable providers.

Mayor Pingalore acknowledged receipt of a letter dated November 21, 2016 from Bill Jensen, Group Vice President, Mediacom, asking the City to reject Frontier Communications application due to incompleteness.

MOTION by Councilmember Coop, second by Councilmember Chard, to close the public hearing at 7:10 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Trost inquired about legal fees and staff time associated with the franchise application. City Administrator Votca explained that Frontier Communications has submitted the $5,500 application fee which is expected to cover administrative costs. If the actual costs are higher, funds will be expended from the City's budget.

MOTION by Councilmember Coop, second by Councilmember Pressley, to accept application from Frontier Communications for cable franchise and to direct staff and legal counsel to negotiate proposed franchise terms and provide a report concerning the application. ALL VOTED AYE. MOTION CARRIED.

7.3. Ordinance 16-12, Bluff Preservation. The City Council will hear public comment on proposed Ordinance 16-12, which, if approved, will repeal and replace Section 1109.06 of the City Code relating to Bluff Preservation.

Community Development Director Smith Strack explained the Planning Commission has reviewed Section 1109.06 of the City Code relating to bluff preservation and finds additional clarity is needed to define certain terms and clarify where standards apply. The Planning Commission reviewed sample language from other communities, consulted the Scott County Watershed Management Organization, and reviewed proposed language drafted by City staff. The Planning Commission proposes to repeal and replace bluff preservation standards.

Proposed bluff preservation standards are intended to manage, stabilize, and conserve defining features in the Belle Plaine landscape which provide stormwater discharge routes, scenic vistas, open spaces, wildlife habitat, resting areas for migrating species along the River Corridor. The proposed amendment provides specific definitions of words and terms used in relation to bluff preservation. The amendment will retain an existing prohibition of land disturbing activities on blufflands and within bluff impact zones. The proposed amendment discourages development of slopes greater than 18 percent that are not blufflands. The proposed amendment requires certain stormwater best management practices be identified and employed when conducting certain activities on steep slopes.

Mayor Pingalore opened the public hearing at 7:13 p.m. and asked for public comment. There was no response.

MOTION by Councilmember Trost, second by Councilmember Coop, to close the public hearing at 7:14 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Chard inquired how the Ordinance affects the Farmers Ridge subdivisions. Community Development Director Smith Strack explained that expired plats would be reviewed under the new regulations.

7.3.1. Adoption of Ordinance 16-12, An Ordinance Repealing and Replacing Section 1109.06 of the City Code Pertaining to Bluff Preservation.

MOTION by Councilmember Coop, second by Councilmember Trost, to adopt Ordinance 16-12, An Ordinance Repealing and Replacing Section 1109.06 of the City Code Pertaining to Bluff Preservation. ALL VOTED AYE. MOTION CARRIED.

7.3.2. Resolution 16-141 Authorize Summary Publication of Ordinance 16-12.

MOTION by Councilmember Coop, second by Councilmember Chard, to approve Resolution 16-141 Authorize Summary Publication of Ordinance 16-12. ALL VOTED AYE. MOTION CARRIED.

8. BUSINESS.

8.1. Presentation of Claims.

Councilmember Chard commented that he supports review of the engineering fees. Councilmember Coop requested withholding payment to Matt Saxe Chevrolet and asked about the consequences of withholding payment to a vendor. Finance Director Meyer explained the City is required to pay its bills within 30 days. The State Auditor has authority and can take measures to ensure the City pays its bills timely. Councilmember Coop withdrew his request.

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

8.2. Annual Renewal Liability Insurance – Jeff McDonald, Canopy Group.

Finance Director Meyer explained the City's insurance coverage from the League of Minnesota Cities Insurance Trust must be renewed annually and the City Council must annually adopt a resolution establishing the per occurrence liability limit as well as elect open meeting law coverage for the entire Council. Staff recommends that the per incident deductible remain set at $2,500. Mayor Pingalore welcomed Jeff McDonald from the Canopy Group. Mr. McDonald provided a brief summary of the City's liability insurance coverage.

Councilmember Chard inquired about the workmen's compensation premium. Mr. McDonald provided an explanation, indicating it is not a frequency issue, but rather a one-time incident.

1. Resolution 16-126 Establishing a $1,500,000 Per Occurrence Limit on Liability Insurance Coverage and Electing Group and Individual Open Meeting Law Insurance Coverage for the Mayor and City Council Members.

MOTION by Councilmember Coop, second by Councilmember Chard, to approve Resolution 16-126 Establishing a $1,500,000 Per Occurrence Limit on Liability Insurance Coverage and Electing Group and Individual Open Meeting Law Insurance Coverage for the Mayor and City Council Members. ALL VOTED AYE. MOTION CARRIED.

9. ADMINISTRATION.
9.1. Upcoming Meetings.

1. City Offices Closed for Thanksgiving Holiday, Thursday and Friday, Nov. 24 & 25.
2. Design Committee, 5:15 pm, Monday, December 5.
3. Truth in Taxation Hearing, 6:15 pm, Monday, December 5.
4. City Council, 6:30 pm, Monday, December 5.
5. Public Works Committee, 11:00 am, Tuesday, December 6.
6. Public Safety, TBD.
7. Destination BP 2040, 6:00 pm, Wednesday, December 7.

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Pressley, to adjourn at 7:30 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary