

**BELLE PLAINE CITY COUNCIL
SPECIAL MEETING
JANUARY 27, 2022**

1. PLEDGE OF ALLEGIANCE.

Mayor Meyer led those present in the Pledge of Allegiance.

2. CALL TO ORDER. 2.1. Roll Call.

The Belle Plaine City Council met in Special Session on Thursday, January 27, 2022 at 5:30 PM in the council chambers of City Hall, 218 North Meridian Street, Belle Plaine, MN. Mayor Meyer called the meeting to order with Councilmembers Cary Coop, Paul Chard, Renee LeMieux and Patricia Krings present.

Also present were City Administrator Meyer, Police Chief Stier, City Attorney Bob Vose and Community Development Director Smith Strack. Wanda Savage was the Video Recording Operator.

3. APPROVAL OF AGENDA.

MOTION by Councilmember Coop, second by Councilmember LeMieux, to approve the agenda. ALL VOTED AYE. MOTION CARRIED.

4. BUSINESS.

4.1. Review Appeal of Tobacco Civil Penalty.

City Administrator Meyer explained an appeal regarding \$100.00 fine was received by a sales person who was found out of compliance with the tobacco compliance check. The salesperson sold tobacco to a minor which resulted in the establishment receiving a \$300.00 fine along with the salesperson receiving a \$100.00 civil penalty. Meyer explained the City has an appeal process and has received an appeal from Lucas O'Brien who is not in attendance but submitted the appeal in writing. Meyer explained the appeal is before the Council for review, if the Council finds the fine stands as is no action is necessary.

Mayor Meyer noted it was his understanding several other businesses failed the compliance check. Police Chief Stier confirmed five businesses failed the compliance check. Meyer noted four other individuals also received the fine.

Councilmember Chard explained the letter submitted by Mr. O'Brien touched him noting the fine for a college student is a lot of money. Chard inquired if the fine amount could be cut in half. Police Chief Stier explained when the violation occurred the Police are allowed to charge criminally which would mean the establishment and the salesperson would receive a Criminal charge along with the civil penalty. Stier noted the department opted to charge the establishment and salesperson with a civil penalty only due to the amount of businesses who failed the compliance check. Stier noted the civil penalty does not go on the criminal record which is also a reduction in the penalty as allowed in code.

Mayor Meyer noted the potential for setting a precedence if removed which could open up for many other issues.

Councilmember Krings inquired if Mr. O'Brien was advised the civil penalty will not go on his permanent record. Police Chief Stier confirmed the sales people were advised the Police Department went with the lesser charge. Stier also noted compliance checks are an annual required State mandate on all businesses who sell tobacco.

No action was taken, the civil penalty stands.

4.2. Review Body Art Establishment License and Take Action on Resolution 22-014A Denial subject to the City Council's authority.

City Administrator Meyer explained Samuel Erickson owner of Lucid Tattoo at 139 E. Main Street in Belle Plaine obtained a body art establishment license in May of 2021. Meyer explained body art establishment licenses expire yearly on December 31 of each year. Meyer explained notifications for renewal were sent out and due by December 23, 2021. Meyer explained Mr. Erickson applied for the 2022 establishment license on January 6, 2022 and upon review of the application a lapse of insurance was noted as of October 2021. Meyer explained per City Code the lapse of insurance revokes the license automatically. Meyer noted due to the automatic revocation and other citations received during the 2021 license as well as operating without a license in 2022 until his application was processed, staff is unable to authorize this application administratively and it takes Council action. Meyer explained staff was contacted by a shop manager who stated additional proof of insurance coverage over the lapse period would be provided but it has not been received. Staff provided back up documentation for review. Meyer noted Council has the following option for action; Approve the resolution of denial of license with condition of reapplication, Approve application and license with conditions or without conditions and direction for staff to prepare that resolution for approval at an upcoming Council meeting or table action and request additional information.

Mayor Meyer inquired if the establishment has an active license. City Administrator Meyer stated the establishment does not have an active license but is currently in a pending status.

MOTION by Councilmember Coop to Approve Resolution 22-014 Denial of Body Art Establishment License. Second by Councilmember Chard for discussion.

Councilmember Chard inquired if the Council approves the denial does the applicant start over as a new application process. City Administrator Meyer explained if the council approves the denial, the application is denied for the 2022 year and would be eligible to reapply for 2023. Chard inquired what it take to get a tattoo artist license. Meyer explained the City does not license the artist only the establishment. Mayor Meyer explained the City preforms an inspection of the establishment and the MN Department of Health licenses the artists. Chard inquired if someone could open an establishment and hire artists. City Administrator Meyer confirmed if the establishment meets the requirements to open that person could hire out artists to work for them.

Councilmember Chard noted rule books have grown over the years because people read between the lines and don't follow the rules. Chard explained his line of work requires licenses and he cannot let them lapse or he is unable to work. Mayor Meyer noted the process and procedure is similar for liquor licenses to food trucks. Chard explained in his opinion the ground rules were not followed and questioned if someone gets sick and dies due the uninsured business who do they sue?

Mayor Meyer explained tonight's meeting does not have a public hearing but will allow the applicant to speak.

Sam Erickson Owner of Lucid Tattoo stepped to the podium. Mr. Erickson explained he fell ill with COVID at the end of October 2021 and was not in his shop for two and a half months. Erickson explained his shop crew kept his business going and all his home and shop bills were paid. Erickson explained he paid his insurance in advance and provided the City the documentation as proof, and he was required to sign a paper and sent it back to his broker. Erickson explained he sent the paper in however the broker negated her responsibilities which the city was notified of her error. Erickson stated he was sick and did not receive any emails, phone calls or paper mail from his insurance company stating the cancellation. Erickson stated he was not told his license was to be renewed in December and stated as soon as he got back to the shop and saw the papers he called staff. Mr. Erickson explained he understands he made a mistake and has no excuse but he did not have anyone to help him in his business which is 100% the reason this insurance issue happened. Erickson suggests he should have a penalty but doesn't believe

his employees should be hurt nor the community as he brings 20,000 people to town a year who don't know the town exists.

Mayor Meyer inquired on the date Mr. Erickson returned back to his business. Mr. Erickson explained he was unsure on the date but it was right after the New Year and noted once back he called staff right away to get the license cleared up.

Mayor Meyer explained process and procedure has been talked about tonight and noted part of the process is City staff are required to perform an inspection of the building. Meyer inquired is it true how you treated staff when they came into the building for the inspection. Mr. Erickson state no, the inspector treated me as stupid and had to come back the next day and apologize as I was right. Mr. Erickson explained when staff visited for the inspection with a cop he treated the inspector with the same respect as was given to him which was insolent behavior. Mr. Erickson stated he does not get a license through the City of Belle Plaine but holds a license through the State of Minnesota. Erickson explained the inspector is not licensed by the State of Minnesota to inspect. Erickson explained apprentices aren't allowed to tattoo until they have a temporary license and 240 hours of tattooing under supervision. Erickson noted the State is so strict and yet they have more understanding relicensing him at the same time with the same issues then the City does.

City Attorney Vose explained in the cancellation notice from the insurance, it confirms you paid the premium in advance and notes noncompliance of inspection request. Vose inquired if he or employees were not allowing an inspection. Mr. Erickson explained the insurance company wanted him to sign a paper with the expiration date of a fire extinguisher. Erickson noted the old agent never inputted the paper into the system.

City Attorney Vose stated he hears the applicant making the argument that the City doesn't have the power to license and the State does. Vose noted while true the State does license and has requirements there is no doubt under State Law that the City has the power for licensing and inspections if the City chooses. Vose requested acknowledgement that if the City needs to perform an inspection and bring a police officer with them they are entitled to do that. Mr. Erickson explained he does understand and noted Mr. Vose misconstrued his words, the City issues an establishment license but it does not supersede the Health Department license.

Mayor Meyer requested final comments from Council.

Councilmember Chard explained he doesn't want to set a precedent and doesn't like the year rule however until someone changes that rule it is as it stands.

Mayor Meyer called the MOTION for denial for a vote. ALL VOTED AYE. MOTION CARRIED.

Mr. Erickson stated if he had a lawyer with this would have gone down differently. City Attorney Vose explained certainly there is an appeal process and the applicant should feel free to consult with a lawyer. Erickson inquired how does he appeal. City Administrator Meyer explained she will address the appeal with Mr. Erickson at the end of the meeting.

a. additional action if necessary.

No additional action items were required.

5. ADMINISTRATION.

5.1. Upcoming Tentative Meetings.

1. Design, Monday, February 7, 5:15 PM
2. City Council, Monday, February 7, 6:30 PM
3. Work Session, Monday, February 7, 6:45 PM

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

6. ADJOURN.

MOTION by Councilmember Krings, second by Councilmember LeMieux, to adjourn the regular session at 6:01 PM. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Renee Eyrich
Recording Secretary