

**BELLE PLAINE CITY COUNCIL
REGULAR SESSION
APRIL 21, 2008**

1. PLEDGE OF ALLEGIANCE.

Mayor Meger led those present in the Pledge of Allegiance.

2. CALL TO ORDER. 1.1. Roll Call.

The Belle Plaine City Council met in Regular Session on Monday, April 21, 2008 at 6:00 p.m. at the Government Center, 218 North Meridian Street, Belle Plaine, MN. Mayor Tom Meger called the meeting to order with Councilmembers Tim Lies, Dawn Underferth, Tim O'Laughlin, Jim Lange and Peter Anderly present.

Also present were City Administrator David Murphy, Community Development Director Trisha Rosenfeld, Public Works Superintendent Al Fahey, Finance Director Dawn Meyer, City Engineer Joe Duncan and City Attorney Bob Vose.

3. APPROVAL OF AGENDA.

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

4. APPROVAL OF CONSENT AGENDA.

4.1. Regular Session Minutes of April 7, 2008.

4.2. Council Workshop Minutes of April 7, 2008.

4.3. Approving Large Assembly Permit for German Days.

4.4. Authorizing the Purchase of 2007 MS Office Software.

4.5. Resolution 08-044 Authorizing Revised Contract with Bolton and Menk for County Roads 64/66 Study.

MOTION by Councilmember Anderly, second by Councilmember Underferth, to approve the consent agenda as follows: 4.1. Regular Session Minutes of April 7, 2008, 4.2. Council Workshop Minutes of April 7, 2008, 4.3. Approving Large Assembly Permit for German Days, 4.4. Authorizing the Purchase of 2007 MS Office Software, and 4.5. Resolution 08-044 Authorizing Revised Contract with Bolton and Menk for County Roads 64/66 Study. ALL VOTED AYE. MOTION CARRIED.

5. VISITOR'S REQUEST – None Scheduled.

6. PUBLIC HEARINGS.

6.1. Conditional Use Permit. The City Council will accept public comment on a request by Michael A. Erdmann, 300 Stonebrooke Court, Shakopee, MN, for a conditional use permit as required for the I-C, Industrial-Commercial District, to allow the retail sale of used boats, motors and trailers at 891 Diversified Drive, Suite D, Belle Plaine, MN.

Mayor Meger referenced a memo dated April 21, 2008 from Community Development Director Rosenfeld regarding a conditional use permit at 891 Diversified Drive, Suite D.

Community Development Director Rosenfeld explained that Michael Erdmann of Shakopee is requesting the review of a Conditional Use Permit to allow for the business operation of selling used boats, motors and trailers. The zoning classification for this property is designated as I-C: Industrial-Commercial. All uses are required to have a conditional use permit. Automobile or trailer sales and service establishments are within the described conditional uses in this zoning district. There is adequate parking for all tenants of the building while complying with the zoning ordinance

requirements and previous conditional use permits originally approved for the building. The Planning Commission recommended approval with the following conditions: All boats, trailers and motors will be stored inside overnight, the storage area is totally fenced, fully screened and landscaped as defined according to Section 1107.03 of this Ordinance, the storage area is grassed or hard surfaced to control dust. Should a grassed surface prove to be unmaintainable, the City shall require that a hard surface be installed within three (3) months of formal written notice to the property owner, the storage area does not encroach upon parking space, loading space or snow storage area as required by this Ordinance, a separate sign permit shall be required for all signs proposed within the property and will be compliant with the zoning ordinance, a separate sign permit shall be required for all signs proposed within the property and will be compliant with the zoning ordinance.

Mayor Meger opened the public hearing at 6:06 p.m. and asked for public comment. No one spoke.

MOTION by Councilmember Anderly, second by Councilmember Lange, to close the public hearing at 6:07 p.m. ALL VOTED AYE. MOTION CARRIED.

Michael Erdmann, 300 Stonebrooke Court, Shakopee, MN, applicant, was present.

6.1.1. Resolution 08-040 Granting Approval of a Conditional Use Permit to Allow Retail Sales at 891 Diversified Drive, Suite D.

MOTION by Councilmember Anderly, second by Councilmember Lies, to approve Resolution 08-040 Granting Approval of a Conditional Use Permit to Allow Retail Sales at 891 Diversified Drive, Suite D. ALL VOTED AYE. MOTION CARRIED.

6.2. Conditional Use Permit. The City Council will accept public comment on a request by Jacob and Gabrielle Williams, 247 South Meridian Street, Belle Plaine, MN, for a conditional use permit to allow home improvements, fence and future patio in the B-2, Highway Commercial District.

Mayor Meger referenced a memo dated April 21, 2008 from Community Development Director Rosenfeld regarding a request for a conditional use permit by Jacob and Gabrielle Williams.

Community Development Director Rosenfeld explained that Jacob and Gabrielle Williams are requesting the review of a Conditional Use Permit in order to construct an addition to their place of residence, as well as add a fence to the property at 247 South Meridian Street. The Comprehensive Plan indicates this property is to remain zoned as it is, B-2: Highway Commercial, therefore this property will remain non-conforming. This property is currently, and will remain, non-conforming and residential uses are not permitted in the Highway Commercial zoning district. According to the Belle Plaine City Code, a Conditional Use Permit is required for any non-conforming structure to be enlarged, extended, converted, reconstructed or structurally altered, unless the structure is changed to one permitted within the district in which such building is located. The property owner would like to construct a fence in the near future. The property owner will need to comply with all fence regulations outlined in the zoning ordinance. The property owner is requesting to construct an addition to the upper east side of their residence. The proposed addition will not increase the size of the current building envelope (footprint). The Planning Commission recommended approval based upon the following conditions: a fence permit is issued prior to the erection of the fence, a building permit is issued prior to the construction of the addition, the proposed addition does not increase the size of the current building envelope (footprint).

Mayor Meger opened the public hearing at 6:10 p.m. and asked for public comment.

Gabrielle Williams, 247 South Meridian Street, applicant, requested approval. She explained that the purpose of the addition is to add an additional bathroom.

MOTION by Councilmember Lange, second by Councilmember Anderly, to close the public hearing at 6:11 p.m. ALL VOTED AYE. MOTION CARRIED.

6.2.1. Resolution 08-041 Granting Approval of a Conditional Use Permit to Allow Home Improvements, Fence and Future Patio at 247 South Meridian Street.

MOTION by Councilmember Lies, second by Councilmember Underferth, to approve Resolution 08-041 Granting Approval of a Conditional Use Permit to Allow Home Improvements, Fence and Future Patio at 247 South Meridian Street. ALL VOTED AYE. MOTION CARRIED.

6.3. Ordinance 08-01. The City Council will accept public comment on proposed Ordinance 08-01, Amending the City Code by Amending Section 1105.10., Subd. 4, of the Zoning Ordinance Pertaining to Conditional Uses in the B-2, Highway Commercial District.

Mayor Meger referenced a memo dated April 21, 2008 from Community Development Director Rosenfeld regarding proposed Ordinance 08-01, Amending the City Code by Amending Section 1105.10., Subd. 4, of the Zoning Ordinance Pertaining to Conditional Uses in the B-2, Highway Commercial District.

Community Development Director Rosenfeld explained that the City Council discussed amending the current uses in the B-2, Highway Commercial zoning district at a recent workshop. Community Development Director Rosenfeld listed the current permitted and conditional uses of the B-2 District. The Council directed staff to bring the ordinance amendment forward to the Planning Commission at the upcoming meeting. At their meeting on April 9, 2008, the Planning Commission recommended approval of Ordinance 08-01, incorporating language into the Conditional Uses within the B-2, Highway Commercial zoning district as follows: "for any use that exceeds twenty thousand (20,000) square feet of gross floor area."

Mayor Meger opened the public hearing at 6:14 p.m. and asked for public comment.

Community Development Director Rosenfeld acknowledged receipt of a letter dated April 7, 2008 from Jon Yanta and Maren Leuer of United Properties, who were opposed to the requirement of a conditional use permit for facilities over 20,000 square feet as it may be perceived as an added risk for developers and users. Mr. Yanta and Mr. Leuer recommended that the City clearly define ordinances for the B-2 District so that there are certain permitted uses that are allowed without a conditional use permit for users larger than 20,000 square feet.

MOTION by Councilmember Lange, second by Councilmember Underferth, to close the public hearing at 6:17 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Lies inquired about the requirement of a conditional use permit for facilities over 20,000 square feet. Community Development Director Rosenfeld explained that staff and legal counsel recommend facilities over 20,000 square feet in the B-2 District be required to obtain a conditional use permit due to the impact to City's services. She further explained that a conditional use permit is required for all uses in the Industrial/Commercial District.

6.3.1. Ordinance 08-01, Amending the City Code by Amending Section 1105.10, Subd. 4, of the Zoning Ordinance Pertaining to Conditional Uses in the B-2, Highway Commercial District.

MOTION by Councilmember Lange, second by Councilmember Anderly, to adopt Ordinance 08-01, Amending the City Code by Amending Section 1105.10, Subd. 4, of the Zoning Ordinance Pertaining to Conditional Uses in the B-2, Highway Commercial District. ALL VOTED AYE. MOTION CARRIED.

6.4. Ordinance 08-02. The City Council will accept public comment on proposed Ordinance 08-02, Amending the City Code by Establishing an Interim Ordinance Requiring Large Retail Establishments within all Districts to be Regulated by Specific Size Requirements.

Mayor Meger referenced a memo dated April 21, 2008 from Community Development Director Rosenfeld regarding proposed Ordinance 08-02, Amending the City Code by Establishing an Interim Ordinance Requiring Large Retail Establishments within all Districts to be Regulated by Specific Size Requirements.

Community Development Director Rosenfeld explained that the City Council discussed the possibility of creating an interim ordinance at a recent workshop. The Council directed staff to bring the ordinance forward to the Planning Commission at the upcoming meeting. The request for an ordinance amendment was brought forward to the Council from a developer who is interested in developing property in Belle Plaine in the near future. The proposed interim ordinance limits the size of large retail development to a size not greater than 75,000 square feet. In order to complete the City's Comprehensive Plan, Design Standards Manual, and Economic Development Plan, it has been requested to establish an interim ordinance to limit the size of large retail development temporarily until these plans have been conducted and implemented. It will be at this time that any permanent modifications to the City Code will be reviewed and further discussed for implementation. The interim ordinance indicates 12 months. This can be lessened for any duration, or extended for an additional 6 months. The Planning Commission reviewed this request at great length at their April 9, 2008 meeting. The Commissioners voted in favor of permanently amending the City Code to prohibit new commercial retail development in excess of 75,000 square feet. Furthermore, the Commissioners recommend the ordinance is reviewed on an annual basis for compliance with the Comprehensive Plan, Economic Development Plan, and Design Standards. Attached with Community Development Director Rosenfeld's memo were two options for consideration by the Council. Option 1: The original request from the City Council workshop was for staff to bring forward an interim ordinance that temporarily prohibits new commercial retail development in excess of 75,000 square feet. This was not favored by the Planning Commission. Option 2: The Planning Commission recommendation for the City Council to permanently amend the City Code to prohibit new commercial retail development in excess of 75,000 square feet, with the additional recommendation that the ordinance is reviewed on an annual basis for compliance with the Comprehensive Plan, Economic Development Plan, and Design Standards. Staff recommends the above language be implemented with the following findings: 1) the City finds that large retail development imposes additional costs on public infrastructure and services, 2) the City finds that large retail development can result in substantial impacts to the community, including urban decay, increased traffic, reduced air quality, and noise impacts.

Mayor Meger opened the public hearing at 6:24 p.m. and asked for public comment.

Community Development Director Rosenfeld acknowledged receipt of two letters, dated April 7, 2008 and April 18, 2008 from Mr. Jonathan Yanta and Mr. Maren Leuer of United Properties. They recommended that the proposed ordinance include more specific language that limits retail with a grocer component. They suggested language, "In all zoning districts the following shall not be permitted: Any proposed new structure or expansion of an structure for retail use with a total floor area exceeding 75,000 square feet which has a full service grocery that contains more than 10,000 square feet of sales floor area which is devoted to the sale of groceries." Mr. Yanta and Mr. Leuer indicated that with this language, a new grocer would be protected from competitors for a period of time and the City of Belle Plaine would remain open to all non-grocer retail developments. They also commented that a permanent ordinance limiting all retail over 75,000 square feet will send a negative message to the development community.

Scott Schmitt, Shingobee Development, explained that Shingobee is interested in developing property adjacent to the TH25 interchange. Mr. Schmitt requested that the Council consider a permanent ordinance, rather than an interim ordinance. He also stated that he supports the comments of Mr. Yanta and Mr. Leuer regarding the reference to grocery stores.

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

Councilmember Lange commented that he would prefer that the City determine a percentage of sales floor area for grocery stores rather than square footage. City Attorney Vose responded that either approach can work.

Councilmember O'Laughlin commented that the City is considering this ordinance to control how the big box retail develops here. He agrees with the Planning Commission's recommendation to review this ordinance on an annual basis.

Mayor Meger asked whether a developer with a plan for a facility over 75,000 square feet could apply for a variance. Community Development Director Rosenfeld explained that State Statute does not allow for "use" variances. City Attorney Vose concurred that a city cannot grant a variance for a "use." He noted the section number was not included in the proposed ordinance. The annual review of an ordinance is policy, rather than part of the ordinance itself, City Attorney Vose explained.

Councilmember Lies recommend the City Attorney prepare language for Ordinance 08-02 that would protect business and also allow development to occur. City Attorney Vose stated that the City may be specific in its language in prohibiting certain large scale developments.

MOTION by Councilmember Anderly, second by Councilmember Lange, to direct staff and legal counsel to prepare language that would specify the prohibition of certain retail sales in facilities over 75,000 square feet.

Community Development Director Rosenfeld asked whether this would prohibit all development over 75,000 square feet. Councilmember Lies noted that more clarification on the motion is needed.

MOTION by Councilmember Anderly, second by Councilmember Lange, withdrew their motion and second.

Mayor Meger asked the Council for clarification as to whether language in the proposed ordinance should read a percentage or actual square footage of area for retail food sales. Councilmember O'Laughlin recommended square footage, as it was precise figure. Community Development Director Rosenfeld asked whether it should read food retail sales or non-taxable goods. She then summarized the direction that staff and legal counsel are to prepare specific language for Ordinance 08-02 as it pertains to prohibiting commercial retail establishments in excess of 75,000 square feet with a full service grocery department of more than 10,000 square feet.

6.4.1. Ordinance 08-02, Amending the City Code by Prohibiting the Establishment of Certain Large Commercial Retail Establishments in the City of Belle Plaine.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to TABLE action on Ordinance 08-02, Amending the City Code by Prohibiting the Establishment of Certain Large Commercial Retail Establishments in the City of Belle Plaine, until the Regular Session on May 5, 2008 to allow time for staff and legal counsel to specify language pertaining to limiting the area of a full service grocery department to not more than 10,000 square feet. ALL VOTED AYE. MOTION CARRIED.

Mayor Meger recessed the Regular Session at 6:53 p.m. and reconvened at 7:01 p.m.

7. BUSINESS.

7.1. Presentation of Claims. 1. Pay Request No. 12 and Final by Chard Tiling for \$125,830.88 for 2006 West Commerce Drive.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to approve the Presentation of Claims as presented and Pay Request No. 12 and Final by Chard Tiling for \$125,830.88 for 2006 West Commerce Drive. ALL VOTED AYE. MOTION CARRIED.

7.2. Farmers Ridge 3rd and 4th Additions.

7.2.1. Resolution 08-042 Filing Extension of Final Plat for Farmers Ridge 3rd Addition.

7.2.2. Resolution 08-043 Filing Extension of Final Plat for Farmers Ridge 4th Addition.

Mayor Meger referenced a memo dated April 21, 2008 from Community Development Director Rosenfeld regarding the filing extensions for Farmers Ridge 3rd Addition and Farmers Ridge 4th Addition.

Community Development Director Rosenfeld explained that Tom Gonyea with Gonyea Development, Inc. had requested an extension of the final plat approvals for Farmer's Ridge 3rd and Farmer's Ridge 4th subdivisions for a third time. The Council approved a 90-day extension in March of 2007 and a 6-month extension in November 2007. The timeframe Mr. Gonyea is requesting at this time is for another six (6) month extension. Farmer's Ridge 3rd revised plat was approved in May 2006. Farmer's Ridge 4th was approved in November 2005. According to State Statute and City Code, final plats are to be filed with the County Recorder within 90 days after City Council approval. Both of the final plats have not been recorded with the County Recorder. Right-of-way easements for Century Street need to be given to the City. This can be done with the filing of the final plats, or via signed easements that have been surveyed by the property owner.

Tom Gonyea, Gonyea Development, requested approval of the extensions.

City Attorney Vose explained that the City may continue to extend the filing date of the plats and reminded the Council of the interest the City has in property taxes for filed plats.

City Engineer Duncan explained that if the City does not grant the extension and Mr. Gonyea does not record the plat, Mr. Gonyea will be required to re-plat.

MOTION by Councilmember Anderly, second by Councilmember Underferth, to approve Resolution 08-042 Filing Extension of Final Plat for Farmers Ridge 3rd Addition, for a period of six months. ALL VOTED AYE. MOTION CARRIED.

MOTION by Councilmember Anderly, second by Councilmember Lange, to approve Resolution 08-043 Filing Extension of Final Plat for Farmers Ridge 4th Addition, for a period of six months. ALL VOTED AYE. MOTION CARRIED. .

7.3. Resolution 08-045 Ordering the Preparation of Plans and Specifications for the Re-Alignment of Enterprise Drive.

Mayor Meger referenced a memo dated April 21, 2008 from City Administrator Murphy regarding the re-alignment of Enterprise Drive.

City Administrator Murphy explained that in order to re-align Enterprise Drive, final plans and specifications will need to be developed to construct the project. The City Engineer prepares all street plans for new construction and reconstruction projects. The not-to-exceed cost for the plans and specifications is \$35,000.

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to approve Resolution 08-045 Ordering the Preparation of Plans and Specifications for the Re-Alignment of Enterprise Drive. ALL VOTED AYE. MOTION CARRIED.

7.4. 2008 Comp Plan Update.

Mayor Meger referenced a memo dated April 21, 2008 from Community Development Director Rosenfeld regarding updates to the Comprehensive Plan Update.

Community Development Director Rosenfeld explained that at the December 2007 Planning Commission meeting, the Commissioners reviewed and approved a few updates to the Comprehensive Plan, as requested by the Metropolitan Council through their initial review of the document. The proposed initial changes are the following: 1) Land Use/Annexation: Maps 6-4 and 6-5 have been updated to more clearly delineate the boundaries of the orderly annexation agreements with Belle Plaine Township and Blakely Township and 2) Housing: Chapter 10, pages 2 and 3, including Table 10-1, which illustrates the densities allowed in the various residential districts. This table was updated to include a column on "Minimum Density Allowed", per Met Council's request. Chapter 4, page 15 has been updated to include affordable housing programs the City of Belle Plaine and Scott County Housing Redevelopment Agency collaborate on.

Community Development Director Rosenfeld further explained that the Planning Commission also discussed the Forecasts and the Transportation Chapter for the modeling of 2030 traffic counts. The Commission directed staff to consult with the Metropolitan Council to verify the numbers they desired the modeling to be based on, either the City's more aggressive population, household and employment forecasts, or the Metropolitan Council's System Statement. Based on the discussion with Met Council staff, Met Council staff asked that the City submit a formal ask for a System Statement Amendment. The Met Council accepted the employment forecasts and will amend the System Statement to reflect this. Employment projections increased by 48% from 2700 to 4,000 for the year 2030.

The System Statement to reflect the more aggressive population and household forecasts for the year 2030 was not amended. Met Council staff noted that they will, however, accept the Belle Plaine Comprehensive Plan with the higher forecasts for 2030, as numbers agree through 2020 and there will be two more mandatory Comprehensive Plan submittals in 2018 and 2028, with opportunities to further review actual trends. The Met Council will note the forecasts are not consistent with their System Statement, but will note that since the City has its own wastewater treatment plan, and is accepting responsibility for infrastructure planning, they will agree to disagree.

At the Planning Commission meeting on April 9, 2008, Gina Mitchell of Bolton & Menk, provided an update on the proposed changes to Chapter 7, Transportation. The revisions were a result of the City's request to evaluate a second development scenario consistent with the City's 2030 forecasts for households, population and employment. Most of the revisions are located within Section IV- Future Transportation System. The Met Council had not taken into account the potential for increased traffic on the Highway 25 river crossing due to the new TH312 near the Chaska/Carver area. A copy of Gina Mitchell's memo was included with Community Development Director Rosenfeld's memo. Community Development Director Rosenfeld recommended that the City Council conduct a public hearing prior to the final adoption of the Comp Plan.

City Engineer Duncan noted that potential for increased traffic at County Road 3 due to TH312 expansion. This information will be pertinent in planning for the CSAH 3 overpass. Councilmember Lies noted Met Council's comment about the City's wastewater treatment plan and infrastructure planning.

MOTION by Councilmember Lies, second by Councilmember O'Laughlin, to accept the changes as presented for preliminary approval of the 2008 Comp Plan Update. Furthermore, staff is authorized to

forward the revisions to the Metropolitan Council for further review. ALL VOTED AYE. MOTION CARRIED.

7.5. Charitable Gambling Update.

Mayor Meger referenced a memo dated April 21, 2008 from City Administrator Murphy regarding charitable gambling update.

City Administrator Murphy explained that the proposed additional language to Chapter 3, Section 305, of the City Code, would require all charitable gambling organizations to declare their intent for expenditures. If the Council concurs, a public hearing would need to be scheduled for the proposed ordinance.

Councilmember Lies asked in the proposed language would place the City in an oversight role for charitable gambling organizations. City Attorney Vose said the proposed language would not place the City in a regulatory role and the State will remain in that capacity. The City is entitled to oversee how the profits are to be used in the City.

It was the consensus of the Council to direct staff to proceed with scheduling a public hearing for a proposed ordinance amendment relating to charitable gambling operations.

8. ADMINISTRATION.

8.1. Upcoming Meetings.

- 1. Public Works Committee Meeting, 9:30 a.m., Friday, April 25.**
- 2. Annual Recycle/Clean Up Day, 8:00 a.m. to noon, Saturday, April 26.**
- 3. Arbor Day Tree Planting, Hickory Park, 10:00 a.m., Saturday, April 26.**
- 4. Park Board, 5:00 p.m., Monday, April 28.**

8.2. Monthly Reports: Ambulance, Police, Community Development, Building Inspection, City Administrator.

The Council was reminded of the upcoming meetings as listed.

9. ADJOURN.

MOTION by Councilmember Lange, second by Councilmember Underferth, to adjourn at 7:25 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary