

**BELLE PLAINE CITY COUNCIL
REGULAR SESSION
JUNE 15, 2009**

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, June 15, 2009 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 Dawn Underferth, Jim Lange, Gary Trost, Tim O'Laughlin and Cary Coop present.

Also present were City Administrator David Murphy, Community Development Director Trisha Rosenfeld, Public Works Superintendent Al Fahey, Finance Director Dawn Meyer, Police Chief Dave Lanning, City Engineer Joe Duncan, City Attorney Bob Vose and Video Recording Operator Bill Kruschke.

3. APPROVAL OF AGENDA.

MOTION by Councilmember Lange, 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 June 1, 2009.

4.2. Special Session Minutes of June 4, 2009.

4.3. Resolution 09-057 Amending the City's Fee Schedule by Amending Fee for Code Enforcement Lawn Mowing Services.

4.4. Authorizing the Mayor and City Administrator to Execute the Scott County Joint Powers Agreement for Assessment, Year 2010.

MOTION by Councilmember Coop, second by Councilmember Underferth, to approve the consent agenda as follows: 4.1. Regular Session Minutes of June 1, 2009, 4.2. Special Session Minutes of June 4, 2009, 4.3. Resolution 09-057 Amending the City's Fee Schedule by Amending Fee for Code Enforcement Lawn Mowing Services, and 4.4. Authorizing the Mayor and City Administrator to Execute the Scott County Joint Powers Agreement for Assessment, Year 2010. ALL VOTED AYE. MOTION CARRIED.

5. DEPARTMENT REPORTS.

5.1. Ambulance Department.

Ridgeview Ambulance Manager Doug Sweeney was present. He reported that "Belle Plaine" has been added to identification on the ambulance vehicle. 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 Chief Lanning was present. The Council acknowledged receipt of the Police Department report.

5.4. Community Development Department.

Community Development Director Rosenfeld was present. The Council acknowledged receipt of the Community Development Department report.

5.5. City Administration Report.

City Administrator David Murphy was present. Mayor Lies requested that agendas for upcoming Episcopalian Church Committee meetings be posted on the City's website. Councilmember Trost inquired about the process of viewing video-taped council meetings on the website. City Administrator Murphy explained that staff is in the process of obtaining a proposal for this service. The Council acknowledged receipt of the City Administration report.

6. PUBLIC FORUM.

Mayor Lies asked for public comment. There was no response.

7. PUBLIC HEARINGS.

7.1. Conditional Use Permit – Tattoo Establishment. The City Council will accept public comment on a request for conditional use permit by Candice Sander to allow a tattoo establishment at 133 North Meridian Street, in the B-3 District.

Mayor Lies referenced a memo dated June 15, 2009 from Community Development Director Rosenfeld regarding a request for a conditional use permit by Candice Sander.

Community Development Director Rosenfeld explained that applicant, Candice Sander of Divine Darkness Tattoo, has requested the review of a conditional use permit for a tattoo establishment at the location of 133 North Meridian Street. The current property owners are Daniel and Lori Neisen of Belle Plaine. This property is currently zoned B-3, Central Business District. The Ordinance states that a conditional use permit is required for *“Other uses determined by the Planning Commission and City Council to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and to the general public health, safety, and welfare.”* Community Development Director Rosenfeld explained that the license requires tattoo establishments to be located at least 300 radial feet from residentially-zoned property, licensed daycare center, public or private educational facility, public library or public park. Our Lady of the Prairie Church and School are located within 300 feet of the subject property. The Council will need to make a determination on this requirement. The Planning Commission recommended approval with the following conditions: 1) a separate sign permit shall be required for all signs proposed within the development, 2) application for a Tattoo Establishment license will need to be made and approved prior to occupancy of the building and 3) the City's Building Official will need to make sure the property is compliance with the Building Code.

Mayor Lies opened the public hearing at 6:16 p.m. and asked for public comment.

Candice Sander, 113 South Market Street, requested approval of the conditional use permit and asked that the Council consider approving the location. She has tried to find a location that would meet the 300 foot radial separation requirement and commented that it has been nearly impossible. Ms. Sander explained that the tattoo studio is not visible to residential districts nor to Our Lady of the Prairie Church and School. She explained that tattoos are becoming mainstream and is being considered as body art.

Chirs Bergstrom, 841 East Forest Street, stated he will be serving as the tattoo artist and is available for any questions the Council may have.

Tammy Harris, 841 East Forest Street, spoke in favor of Candice Sander and the tattoo establishment at 133 North Meridian Street. She is a manager of Huck's Shipwreck Saloon, 109 North Meridian Street, and supports the tattoo business.

Dawn Marie Quinche, 128 West Main Street, operates a home-based business, and expressed concern for the large amount of vacant retail buildings in the downtown. She respects the tattoo business and professional artist but suggested a different name for a better image. Downtown is becoming a bar/light industrial zoned area and feels the downtown is not being promoted for more retail.

Kevin Harris, 841 East Forest Street, spoke in favor of the tattoo establishment. He explained that the name "Divine Darkness" has meaning. He also complimented the Council on the aesthetics of downtown Belle Plaine and compared it to his hometown of Sioux Falls, SD. Mr. Harris stated that he believes the City will not allow drugs or loitering in the downtown area. He complimented the City Council on the Belle Plaine's vibrant downtown community.

Nicole Metton, 124 West Main, has seen many businesses move in and out. She supports having a tattoo establishment in the downtown area.

Sara Jaeger, owner of Mystic Journey, downtown Belle Plaine. She spoke in favor of the tattoo establishment and commented that it will be good for diversity and provide options for downtown.

Scott Schneider, 510 North Elm Street, supports the tattoo establishment. He supports bringing new businesses into town. He explained that a location at Hucks Shipwreck Saloon is the only address that would meet compliance of the 300 radial foot separation requirement.

MOTION by Councilmember Underferth, second by Councilmember Coop, to close the public hearing at 6:32 p.m. ALL VOTED AYE. MOTION CARRIED.

Councilmember Trost commented that the owner stated at the Planning Commission meeting that no one under the age of 18 would be allowed to obtain a tattoo. Councilmember Lange questioned whether allowing a tattoo establishment within the 300 foot radius would set a precedent. Community Development Director Rosenfeld commented that liquor establishments do not have a 300 radial foot requirement. City Attorney Vose explained that the 300-radial foot separation requirement is part of the licensing code, not the City's zoning code. Other businesses have certain requirements. The precedent would be for tattoo establishments only.

7.1.1. Resolution 09-053 Conditional Use Permit for a Tattoo Establishment at 133 North Meridian Street.

MOTION by Councilmember Coop, second by Councilmember O'Laughlin, to approve Resolution 09-053 Conditional Use Permit for a Tattoo Establishment at 133 North Meridian Street. ALL VOTED AYE. MOTION CARRIED.

7.1.2. Approving Divine Darkness Tattoo Establishment at 133 North Meridian Street.

MOTION by Councilmember Lange, second by Councilmember Coop, to approve Divine Darkness Tattoo Establishment at 133 North Meridian Street, granting allowance of less than the required 300 radial foot separation for residentially-zoned property and a private educational facility. ALL VOTED AYE. MOTION CARRIED.

8. BUSINESS.

8.1. Presentation of Claims.

Councilmember Coop inquired about the amount of monthly health insurance premium.

MOTION by Councilmember Underferth, second by Councilmember O'Laughlin, to approve the Presentation of Claims as presented. ALL VOTED AYE. MOTION CARRIED.

8.2. Resolution 09-056 Granting Approval of Belle Plaine Road Right-of-Way Plat #3.

Mayor Lies referenced a memo dated June 15, 2009 from Community Development Director Rosenfeld regarding Belle Plaine Road Right-of-Way Plat #3.

Community Development Director Rosenfeld explained that if the City is successful in receiving Federal ARRA (Stimulus) Funds, the City will propose the construction of a frontage road on the south side of TH 169. The south frontage road will connect CSAH 5 on the northeast, to CSAH 3 on the southwest and will be located parallel to TH 169, similar to the location of East Commerce Drive on the north. The areas affected by the south frontage road connection are comprised of A-2 Rural Residential to the southwest, B-2 Highway Commercial, I-2 General Industrial, I-C Industrial Commercial, and A-2 Rural Residential to the northeast. Driveway access points to existing properties will be discussed with the individual property owners. The right-in and right-out access to South Street from TH 169 will be closed as a result of constructing the south frontage road. An illustration of proposed sidewalk and trail location was included with Community Development Director Rosenfeld's memo. Grading will be similar to the frontage road (East Commerce Drive) on the north side of TH 169. Temporary utility easements will be utilized during construction. Storm water ponds will be located on the BP Commons and CLC Development properties. The Planning Commissioners discussed the plat at their recent meeting. Commissioners had technical discussions regarding the width of the road on the Morris property, and the location of sidewalks in relation to the road. The Planning Commission recommended approval, with the condition that upon completion of title work, ownership table is finished.

Councilmember Lange inquired about a sidewalk adjacent to the proposed frontage road near County Road 3. Community Development Director Rosenfeld explained the proposed trail would extend to the existing trail.

MOTION by Councilmember Coop, second by Councilmember Trost, to approve Resolution 09-056 Granting Approval of Belle Plaine Road Right-of-Way Plat #3. ALL VOTED AYE. MOTION CARRIED.

8.3. Resolution 09-055 Authorizing the Purchase of Forfeiture Vehicle from the Belle Plaine Police Department and the Transfer of Funds.

Mayor Lies referenced a memo dated June 15, 2009 from City Administrator Murphy regarding the purchase of a forfeiture vehicle.

City Administrator Murphy explained that the Belle Plaine Police Department has a 1999 Ford Taurus forfeiture vehicle. This vehicle is slated to be sold at Fahey Auction Sales in July. The City currently owns a 2006 Chevy Uplander that is used as an Administration/Planning vehicle. The Uplander serves as a primary vehicle for building inspections, code enforcement, and out-of-town meetings. There has been an increasing demand for the use of the Uplander by other departments and for longer periods of time. The Kelly Blue Book value of the 1999 Ford Taurus is approximately \$1000.00. It requires a new fuel pump, windshield, and a side mirror. The costs for the repairs are approximately \$600.00 to \$700.00 so the City will be purchasing the vehicle for \$300.00. Scott County Forfeiture Attorney receives 30% of the purchase price (\$90.00) and the Forfeiture Fund will receive the remaining 70% (\$210.00). Upon approval, a check will be issued to Scott County Forfeiture Attorney and a transfer from the General Fund (101) to the Forfeiture Fund (210) will be made.

Councilmember Trost was opposed to the purchase of another City vehicle. He commented that the City has too many vehicles sitting around. He suggested that the Police Department deliver the packets. Mayor Lies also questioned the cost effectiveness of purchasing another vehicle.

MOTION by Councilmember Coop, second by Councilmember Underferth, to approve Resolution 09-055 Authorizing the Purchase of Forfeiture Vehicle from the Belle Plaine Police Department and the Transfer of Funds. Mayor Lies and Councilmember Trost VOTED NAY. ALL OTHERS VOTED AYE. MOTION CARRIED.

8.4. Resolution 09-058 Modifying the City's Assessment Policy.

Mayor Lies referenced a memo dated June 15, 2009 from Finance Director Meyer regarding modifications to the City's Assessment Policy.

Finance Director Meyer explained that the city engineer, legal counsel and staff have been reviewing the City's Assessment Policy. After a full review of the policy, it is proposed that the City of Belle Plaine's Assessment Policy be modified to reflect staff's recommended changes. In recent years the City's Assessment Policy, procedures, and amounts have been challenged during improvement projects. The Assessment Policy has been followed and has been affirmed in each challenge. Due to the last challenge process, staff recognized that the City's Assessment Policy could be improved to clarify process, procedures, and State Statutes. Attached with Finance Director Meyer's memo was a copy of the Assessment Policy with the recommended changes.

Councilmember Coop suggested that further details of the Assessment Policy be discussed at a future work session. He inquired as to the meaning of "undue hardship". Councilmember Trost commented on the editing of the proposed Assessment Policy and suggested approval be delayed until all changes are clarified. Mayor Lies acknowledged Councilmember Coop's request to review the Assessment Policy at a work session in July or August.

MOTION by Councilmember Trost, second by Councilmember O'Laughlin, to approve Resolution 09-058 Modifying the City's Assessment Policy. ALL VOTED AYE. MOTION CARRIED.

8.5. Authorizing the Movement of Utility Shed to Heritage Square and Repairs.

Mayor Lies referenced a memo dated June 15, 2009 from Assistant Planner Andy Villella.

In reference to Assistant Planner Villella's memo, Community Development Director Rosenfeld explained that local residents and members of the Youth Baseball Association have requested a shed currently located behind the Public Works garage, be relocated to Heritage Square to house a tractor the volunteers use to do extended maintenance and grooming to the Heritage Square baseball diamond. The shed is owned by the City, and both relocation and repairs will be performed by Public Works. The Park Board has discussed the proposal with the volunteers who perform the additional maintenance to the baseball diamond. The Park Board Commissioners would like to see both colors of the shingles and siding on the shed match the other shelters in Heritage Square. The shed should be located on the north side of the baseball diamond within Heritage Square, as a temporary structure. Community Development Director Rosenfeld explained that it is estimated to cost \$1,700 to move and repair the structure.

Councilmember Trost suggested that the City add storage space to the existing restroom building or dug outs. He commented that the aesthetics of the shed was unacceptable. Mayor Lies and Public Works Superintendent Fahey explained that it was the intent to have the shed re-sided, re-roofed and new doors added. Councilmember Coop explained that the Park Board supported the movement and repair of the shed only as a temporary solution. Although the Park Board Commissioners were not in favor of having the subject shed located in Heritage Park, they believed it was in the best interest of assisting the volunteers of the baseball association with storing their equipment as an interim period. Public Works

Superintendent Fahey commented that he concurs with Councilmember Trost that it would have been wise to add additional storage space while constructing the restroom facility or the dug outs.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to authorize the movement of a utility shed to Heritage Square and to authorize repairs to the shed, including, but not limited to, re-siding, re-roofing, and new doors, with costs to be expended from the City's Capital Fund. ALL VOTED AYE. MOTION CARRIED. .

8.6. Resolution 09-059 Award Bid for 2009 Seal Coat Project.

Mayor Lies referenced a memo dated June 15, 2009 from City Administrator Murphy regarding the 2009 seal coat bids.

City Administrator Murphy explained that three bids were received and opened on June 10, 2009 for the 2009 seal coat project. The low bid was submitted by Pearson Brothers, Inc., for \$78,242.00. The 2009 budget for seal coating is \$80,000.00.

MOTION by Councilmember Coop, second by Councilmember Underferth, to approve Resolution 09-059 Award Bid for 2009 Seal Coat Project. ALL VOTED AYE. MOTION CARRIED.

9. ADMINISTRATION.

9.1. Upcoming Meetings.

- 1. Chamber of Commerce Bar-B-Q Days Kick Off Event, 5:00 p.m. Wednesday, June 17.**
- 2. Ambulance Sub-Committee, 6:00 p.m., Thursday, June 18.**
- 3. SCALE Transportation, 6:00 p.m. Tuesday, June 23 – Prior Lake.**
- 5. Design Committee, 6:00 p.m., Thursday, June 25.**
- 6. Council Work Session, 6:00 p.m., Monday, June 29.**
- 7. Observance of Independence Day - City Offices Closed Friday, July 3.**
- 8. City Council, 6:00 p.m., Monday, July 6.**

The Council was reminded of the upcoming meetings as listed.

10. ADJOURN.

MOTION by Councilmember Lange, second by Councilmember Underferth, to adjourn at 7:16 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Dawn Meyer
Acting Recording Secretary