

**BELLE PLAINE CITY COUNCIL  
REGULAR SESSION  
JULY 9, 2007**

**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, July 9, 2007 at 6:30 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.**

Mayor Meger requested that State Representative David Bly follow Dan Cole, 929 Deer Creek Parkway – Fire and Ambulance Bill Appeal, under the Visitor's Request.

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to approve the agenda with the change that State Representative David Bly will follow Dan Cole, 929 Deer Creek Parkway – Fire and Ambulance Bill Appeal, under Visitor's Request. ALL VOTED AYE. MOTION CARRIED.

**4. APPROVAL OF CONSENT AGENDA.**

**4.1. Regular Session Minutes of June 18, 2007.**

**4.2. Closed Session Minutes of June 15, 2007.**

**4.3. Authorizing the Mayor and City Administrator to Enter into Cooperative Agreement for Cost Sharing of Aerial Photography.**

**4.4. Resolution 07-062 Adopting the Name of "Beautiful Prairie Trail" for the City's Trail System.**

**4.5. Authorizing the Legal Services of Melcher, Hubert & Sjodin for the Belle Plaine Ambulance Service.**

**4.6. Authorizing the Preparation of Request for Proposals to Contract Management Services for Belle Plaine Ambulance Service.**

**4.7. Resolution 07-063 Award Bid for the 2007 Street Improvement Project.**

**4.8. ISD 716 Request to Mount Wireless Transmission on City Baseball Lights.**

**4.9. Authorizing Membership to Minnesota Valley Council of Governments.**

MOTION by Councilmember Underferth, second by Councilmember Lies, to approve the consent agenda as follows: 4.1. Regular Session Minutes of June 18, 2007, 4.2. Closed Session Minutes of June 15, 2007, 4.3. Authorizing the Mayor and City Administrator to Enter into Cooperative Agreement for Cost Sharing of Aerial Photography, 4.4. Resolution 07-062 Adopting the Name of "Beautiful Prairie Trail" for the City's Trail System, 4.5. Authorizing the Legal Services of Melcher, Hubert & Sjodin for the Belle Plaine Ambulance Service, 4.6. Authorizing the Preparation of Request for Proposals to Contract Management Services for Belle Plaine Ambulance Service, 4.7. Resolution 07-063 Award Bid for the 2007 Street Improvement Project, 4.8. ISD 716 Request to Mount Wireless Transmission on City Baseball Lights and 4.9. Authorizing Membership to Minnesota Valley Council of Governments. ALL VOTED AYE. MOTION CARRIED.

**5. Reports.**

**5.1. Fire Department.**

Fire Department Member Todd Otto was present. The Council acknowledged receipt of the Fire Department report.

**5.2. Community Services Department.**

Community Services Director Nelson Ladd was unable to attend. The Council acknowledged receipt of the Community Services Department report.

**5.3. Public Works Department.**

Public Works Director Al Fahey was present. Councilmember Lange inquired about off-peak electrical savings. The Council acknowledged receipt of the Public Works Department report.

**5.4. Engineer Report.**

City Engineer Joe Duncan was present. The Council acknowledged receipt of the Engineer Report.

**5.5. City Administration Report.**

City Administrator David Murphy was present. He reported that Acting Ambulance Coordinator Julie Perrone has submitted her resignation. The Council directed City Administrator Murphy to investigate the cost of blinking warning signs near CSAH 3. The Council acknowledged receipt of the City Administration report.

**6. VISITOR'S REQUEST.**

**6.1. Darlene Hogeboom, Belle Plaine Historical Society.**

Mayor Meger welcomed Darlene Hogeboom of the Belle Plaine Historical Society,.

Ms. Hogeboom explained that the Scott County Historical House located in Court Square is in need of repainting and it has been determined that there is lead paint on the house that needs to be removed. She has obtained some cost estimates for the work.

It was the consensus of the Council to direct this issue to the Public Works Committee for review and recommendation.

**6.2. Dan Cole, 929 Deer Creek Parkway – Fire and Ambulance Bill Appeal.**

Mr. Dan Cole was not present. There was no further action from the Council.

**6.3. State Representative David Bly.**

Mayor Meger welcomed State Representative David Bly.

State Representative Bly provided a brief summary of recent legislative action, including the transportation bill, which Bly supports reconsideration of this bill. Councilmember Lies inquired about the proposed wheelage tax for Scott County. State Representative Bly recommended that Scott County delay action on this issue to allow time for consideration by the State.

Mayor Meger thanked State Representative Bly for his presentation.

**7. PUBLIC HEARINGS – NONE SCHEDULED.**

## **8. BUSINESS.**

### **8.1. Presentation of Claims.**

**8.1.1. Pay Request No. 1 & Final by Pearson Brothers for \$54,130.25 for the 2007 Seal Coat Project.**

**8.1.2. Pay Request No. 9 by Chard Tiling for \$24,814.51 for the 2006 West Commerce Drive Project.**

MOTION by Councilmember Lange, second by Councilmember O'Laughlin, to approve the Presentation of Claims, Pay Request No. 1 & Final by Pearson Brothers for \$54,130.25 for the 2007 Seal Coat Project and Pay Request No. 9 by Chard Tiling for \$24,814.51 for the 2006 West Commerce Drive Project. ALL VOTED AYE. MOTION CARRIED.

### **8.2. Resolution 07-059 Award Bid for North Sanitary Sewer Interceptor Project.**

Mayor Meger referenced a memo dated July 9, 2007 from City Administrator Murphy regarding the bid for the North Sanitary Sewer Interceptor Project.

City Administrator Murphy explained that this issue was tabled from the June 18<sup>th</sup> Council Meeting to allow staff to gather further information on determining the responsibility of the low bidder. Included with City Administrator Murphy's memo were copies of correspondence and documents between Contractor's Edge and Bolton and Menk regarding the 2003 Utility Improvement Project.

City Administrator Murphy further explained that City Attorney Vose will discuss the Council's options and staff will present the documentation. The low bidder will have the opportunity to make a presentation to the Council. After their presentation, it is appropriate for the Council to pass Resolution 07-059 A or B. Resolution 07-059 "A" awards the contract to the low bidder, while "B" awards the bid to the next lowest bidder. If the Council adopts Resolution 07-059B, the Council will need to direct staff to prepare a resolution stating the reasons for denial of awarding the bid to the low bidder.

City Attorney Vose provided a framework for this issue. He explained that the State bidding law requires the contract to be awarded to the lowest responsible bidder and that staff has raised a question regarding whether the low bidder is "responsible." The Council is charged with awarding the bid to the responsible low bidder who will carry out the contract faithfully and satisfactorily. The Council may evaluate a bidder's responsibility based upon the bidder's financial responsibility, integrity and the ability to skillfully perform the job duties of the project. City Attorney Vose referenced the Council packet information and suggested review of the City's past experience with the low bidder, review of difficulties with the bidder on any previous project, and review of whether this project is similar or different than any past project the bidder performed. City Attorney Vose noted that there is a substantial difference in the amounts bid by the low and second low bidders.

City Engineer Duncan explained that the low bidder for the North Sanitary Sewer Interceptor Project, John Brindley of Contractor's Edge, was present. City Engineer Duncan asked Mr. Brindley the following questions.

1. Do you feel you can complete the project within the contract time line?

Mr. Brindley responded that he would need a time extension because of the delay in the award of the bid. The bid award was proposed for July 1<sup>st</sup>. Now it is a late start. The time extension of September would need to be moved to October to allow for the lost 30 days due to the bid award.

2. Do you foresee any unit or price increases?

Mr. Brindley stated that he ordered pipe and can cancel the order. He doesn't expect a monetary drain.

3. This project involves temporary easements. Can you construct the project within the limits of the contract?

Mr. Brindley replied yes.

4. We understand that your company has experienced the loss of employees. How will this affect the project?

Mr. Brindley stated that the loss of employees will not affect the project.

The Council recessed at 7:06 p.m. and reconvened at 7:15 p.m.

Mayor Meger explained that the Council has received testimony regarding the award of the bid for the North Sanitary Sewer Interceptor Project.

City Administrator Murphy explained that the Council has information in their packets as they requested at the June 18<sup>th</sup> Council Meeting. The documentation includes letters from Bolton and Menk, Contractor's Edge, resident Scott Renne and the field notes taken by the Bolton and Menk Resident Project Representative which illustrate the following issues: construction timelines, construction limits issues, and construction issues.

City Administrator Murphy further explained that there were issues regarding the timeliness and time extensions as illustrated in the letters from Bolton and Menk and Contractor's Edge. There were also issues regarding Contractors Edge using private property as access and equipment storage as illustrated in the letter from Scott Renne. In addition, there were issues regarding construction practices as illustrated in the Field Observation Reports provided by Bolton and Menk's Resident Project Representatives. City Administrator Murphy then concluded that based on the evidence provided in the packets and after speaking to City Engineer Duncan, Public Works Superintendent Fahey and City Attorney Vose, the Council has sufficient evidence to conclude that Contractors Edge is not the responsible low bidder. Based on this information, City Administrator Murphy recommended to the Council that they award the bid to the second low bidder, Heselton Construction.

Councilmember Lange, referencing Resolution 07-059 B, inquired as to whether the Council needs to state the reasons for the denial.

City Attorney Vose stated that the Council may make a decision based upon the documentation in their packets and also staff's recommendation. He further explained that Resolution 07-059A awards the bid to the lowest bidder, Contractor's Edge. Resolution 07-059 B awards the bid to the second low bidder. If the Council awards the bid to the second low bidder, City Attorney Vose recommended that the Council direct staff to prepare a resolution for adoption at the next City Council meeting that includes the reasons for denial of the lowest bidder.

Mayor Meger inquired as to whether Mr. John Brindley has any further comments.

Mr. Brindley stated that he does not understand why he is not the lowest responsible bidder. He doesn't understand why the City feels this way about Contractor's Edge. He said that Contractor's Edge not being selected as the lowest responsible bidder does not sit well with him and doesn't know where the Council is coming from on this issue. He asked as to how the City can claim that Contractor's Edge is not responsible.

MOTION by Councilmember Lange, second by Councilmember Anderly, to approve Resolution 07-059 B, Award Bid for North Sanitary Sewer Interceptor Project to Heselton Construction, LLC, in the amount of \$1,487,872.50. ALL VOTED AYE. MOTION CARRIED.

City Attorney Vose recommended that the Council direct staff to proceed with the preparation of a resolution for adoption at the next meeting with the findings by the City Council to deny the award of the bid to the low bidder. He further explained that the reasons will include those as stated by City Administrator Murphy. City Attorney Vose also explained that Mr. Brindley had indicated earlier this evening that he would need a time extension to complete the project. This issue would also be included in the resolution as supporting documentation that he could not complete the project as required under the contract terms.

### **8.3. 2007 East Main Street Sidewalk Improvement Project.**

#### **8.3.1. Resolution 07-064 Ordering Preparation of a Feasibility Report for the 2007 East Main Street Sidewalk Project.**

Mayor Meger referenced a memo dated July 9, 2007 from City Administrator Murphy regarding the proposed 2007 East Main Street Sidewalk Project.

City Administrator Murphy explained that the Public Works Committee had recommended that a feasibility report be ordered for the 2007 East Main Street Sidewalk Project. The project would extend a sidewalk from the TH25 interchange bridge from Old Highway 169 Blvd to Ash Street. Also considered will be the sidewalk extension to Elm Street.

Public Works Superintendent Fahey explained that the sidewalk extension was in the initial plans for the TH25 interchange project, utilizing park dedication funds. The plans for the sidewalk were then removed after the Park Board recommended that park dedication funds not be used. The Park Board supported the extension of the sidewalk as a City assessment project.

City Engineer Duncan explained that the sidewalk project is proposed according to State Statute 429, with assessment to the adjoining property owners.

Councilmember Underferth inquired about the scope of the project. Public Works Superintendent Fahey explained that the sidewalk is proposed from Old Highway 169 Blvd to Ash Street, with consideration of the extension to Elm Street as well.

MOTION by Councilmember Lies, second by Councilmember Underferth, to approve Resolution 07-064 Ordering Preparation of a Feasibility Report for the 2007 East Main Street Sidewalk Project. Councilmember Lange ABSTAINED. ALL OTHERS VOTED AYE. MOTION CARRIED.

#### **8.3.2. Resolution 07-065 Receiving Report and Calling for Public Hearing for the 2007 East Main Street Sidewalk Improvement Project.**

Mayor Meger referenced a memo dated July 9, 2007 from City Administrator Murphy regarding the proposed 2007 East Main Street Sidewalk Project.

City Administrator Murphy explained that the feasibility report for the 2007 East Main Street Sidewalk Project has been prepared by the City Engineer, Bolton and Menk.

City Engineer Duncan explained that the Public Works Committee has recommended consideration of the extension of the sidewalk further west, to Elm Street. The estimated costs were included with the report.

Councilmember O'Laughlin commented on the proposed sidewalk project and its designation as such, rather than a trail.

City Attorney Vose noted that in Resolution 07-065, item No. 5 should read "Exhibit 2" rather than "Exhibit B."

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to approve Resolution 07-065 Receiving Report and Calling for Public Hearing for the 2007 East Main Street Sidewalk Improvement Project, with a revision that item No. 5 should read "Exhibit 2" rather than "Exhibit B." Councilmember Lange ABSTAINED. ALL OTHERS VOTED AYE. MOTION CARRIED.

**8.4. Ordinance 07-08, Amending the City Code by Repealing and Replacing Chapter 1 in its Entirety.**

Mayor Meger referenced a memo dated July 9, 2007 from City Administrator Murphy regarding proposed Ordinance 07-08, Amending the City Code by Repealing and Replacing Chapter 1 in its Entirety.

City Administrator Murphy provided a brief overview of the proposed changes to Chapter 1, Operations and Administration.

Finance Director Meyer requested that action be tabled on proposed Ordinance 07-08, to allow time for staff to perform further review.

MOTION by Councilmember O'Laughlin, second by Councilmember Underferth, to TABLE action on Ordinance 07-08, Amending the City Code by Repealing and Replacing Chapter 1 in its Entirety, until July 23, 2007 to allow time for the staff to perform further review. ALL VOTED AYE. MOTION CARRIED.

**8.5. Resolution 07-066 Authorizing Summary Publication of Ordinance 07-08.**

Mayor Meger explained that it is appropriate to table action on Resolution 07-066 Authorizing Summary Publication of Ordinance 07-08 as well.

MOTION by Councilmember Lange, second by Councilmember Underferth, to TABLE action on Resolution 07-066 Authorizing Summary Publication of Ordinance 07-08 until adoption of Ordinance 07-08. ALL VOTED AYE. MOTION CARRIED.

**9. ADMINISTRATION.**

**9.1. Upcoming Meetings.**

1. Planning Commission, 6:00 p.m., Wednesday, July 11.
2. Financial Workshop, 5:30 p.m., Tuesday, July 17.
3. Park Board and Staff, 3:00 p.m. Wednesday, July 18.
4. Council-Staff Workshop, 7:00 a.m., Friday, July 20.
5. City Council 6:00 p.m., Monday, July 23.
6. Public Works, 9:30 a.m., Friday, July 27.
7. Park Board, 5:30 p.m., Monday, July 30.

The Council was reminded of the upcoming meetings as listed.

**10. ADJOURN.**

MOTION by Councilmember Lange, second by Councilmember Anderly, to adjourn at 7:45 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings  
Recording Secretary

